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(1921-2000)

May 16, 2005

The Honorable Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, SC 29211

SC PUBLIC SERVICE COMMISSION
2005 MAY 16 PM 4:16
FILED

Re: Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Farmers Telephone Cooperative, Inc., Home Telephone Co., Inc., PBT Telecom, Inc., and Hargray Telephone Company, Concerning Interconnection and Resale under the Telecommunications Act of 1996
Docket No. 2005-67-C
Our File No. 05-7010

Dear Mr. Terreni:

Enclosed are the original and twenty-six copies each of Direct Testimony of Greg Darnell. Would you please file the originals, returning a clocked copy to me. Thank you for your assistance.

By copy of this letter I am serving all counsel of record by mail and electronically.

Very truly yours,

WOODWARD, COTHRAN & HERNDON

Betty J. DeHart
for Darra W. Cothran

DWC/bjd

Enclosures.

cc: F. David Butler, Esquire
Elliott F. Elam, Jr., Esquire
John M. Bowen, Jr., Esquire
Wendy B. Cartledge, Esquire
Frank R. Ellerbe, III, Esquire

OK D. Duke
OK D. Duke

BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

In Re: Petition of MCImetro Access Transmission)
Services, LLC for Arbitration of Certain Terms)
and Conditions of Proposed Agreement with)
Farmers Telephone Cooperative, Inc., Home)
Telephone Co., Inc., PBT Telecom, Inc., and)
Hargray Telephone Company, Concerning)
Interconnection and Resale under the)
Telecommunications Act of 1996)

Docket No. 2005-67-C

**PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC
FOR ARBITRATION WITH FARMERS TELEPHONE COOPERATIVE, INC.,
HARGRAY TELEPHONE COMPANY, HOME TELEPHONE CO., INC.,
AND PBT TELECOM, INC., UNDER THE
TELECOMMUNICATIONS ACT OF 1996**

2005 JUL 16 PM 4:16

FILED

DIRECT TESTIMONY OF GREG DARNELL

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Greg Darnell, and my business address is 6 Concourse Parkway,
3 Atlanta, Georgia, 30328.

4
5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by MCI, Inc. as Senior Manager – Regulatory Economics.

7
8 **Q. HAVE YOU PREVIOUSLY TESTIFIED?**

9 A. Yes. I have testified in proceedings before regulatory commissions in Alabama,
10 California, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Jersey, North
11 Carolina, Pennsylvania and Tennessee, as well as before the South Carolina Public
12 Service Commission (“Commission”), and on numerous occasions have filed
13 comments with the Federal Communications Commission (“FCC”).

14
15 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL**
16 **BACKGROUND?**

17 A. I have more than 22 years experience in telecommunications, with about half of
18 that time in the area of public policy. For the past 10 years, my job
19 responsibilities at MCI have focused on issues relating to opening local
20 telecommunications markets to competition. I have testified on a wide range of
21 issues related to interconnection agreements between MCI and incumbent local
22 exchange carriers. My responsibilities require that I work closely with many
23 different organizations in the company, including the personnel responsible for

1 the design and operation of the company's network, as well as those who sell
2 services to customers across all market segments.

3 I received my Master of Science degree in Telecommunication
4 Management from the University of Maryland University College in 2004.
5 Many of the courses of study involved in obtaining this degree directly relate to
6 the topics of this arbitration. These courses included Wide Area Network
7 Engineering, Internet-work Engineering, Telecommunication Operations
8 Management, Management Information Systems, Strategic Management and
9 Management Accounting. My qualifications are detailed in Attachment GJD-1
10 to this testimony.
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Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. MCImetro Access Transmission Services, LLC (“MCI”) has filed a petition for arbitration to resolve issues following negotiations with four incumbent local exchange companies, Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Home Telephone Co., Inc., and PBT Telecom, Inc. (referred to collectively as the “RLECs” or “ITCs”).

To help the Commission understand the unresolved issues, I have organized my discussion into the following categories:

- a) Issues regarding the definitions in and scope of the interconnection agreement: i.e., the law governing the agreement, the definitions to be used in the agreement, and the extent to which the purpose or scope of the agreement should be limited. Issues #1, #5, #6, #7, #9, #10(a), #11, #12, #15, #17.
- b) Issues regarding billing notices. Issues #2, #4.
- c) Issues regarding information regarding identification of the calling party. Issues #3, #14 and #16.
- d) Issues regarding compensation for “virtual NXX” codes for ISP-bound traffic, and for “out-of-balance” traffic. Issues #8, #10(b), #13, #21.
- e) An issue regarding customer service records (“CSRs”). Issue #18.
- f) An issue regarding the rates for wholesale services and facilities to be provided by the RLECs. Issue # 20. (Issue #19 has been withdrawn.)

1 Like was done in the petition filed by MCI in this proceeding, in this testimony
2 agreement language proposed by MCI will be bold, underscored and italicized and
3 agreement language proposed by the RLECs will be in bold type.

4
5 **A. THE DEFINITIONS IN, AND SCOPE AND LIMITATIONS OF, THE**
6 **INTERCONNECTION AGREEMENT**

7
8
9 **1. THE LAW GOVERNING THE AGREEMENT**

10
11
12 **ISSUE #1**

13 **Issue:** Should the Agreement state that it is pursuant only to
14 §§ 251 (a) and (b) and 252 of the Act? (GT & C, in the
15 third “whereas” clause, and Interconnection, 1.1)

16
17 **MCI position:** No. Law other than these subsections covers the
18 relationship between interconnecting carriers. MCI
19 has proposed additional language that ensures that
20 the ITCs’ asserted rural exemption rights are not
21 prejudiced.

22
23 **ILEC position:** ITCs believe that only the noted subsections of
24 section 251 apply to this agreement.
25

26 **Disputed Language:** [In the GT &C:]

27 WHEREAS, the Parties wish to interconnect their facilities
28 and exchange traffic specifically for the purposes of
29 fulfilling their obligations pursuant to **Sections 251 (a) and**
30 **(b), and 252 of the Telecommunications Act of 1996 (“the**
31 **Act”). ILEC asserts that it is exempt from the provisions**
32 **of section 251(c) of the Act, and CLEC has not requested**
33 **anything from ILEC pursuant to section 251(c). By**
34 **entering into this Agreement, ILEC does not waive its**
35 **right to assert that it is exempt from section 251(c), and**
36 **CLEC does not waive its right to assert that 1) ILEC is**
37 **not exempt from section 251(c), or 2) that if ILEC is**
38 **exempt, its exemption should be terminated.** Purpose. The
39 Parties agree that the rates, terms and conditions contained
40 within this Agreement, including all Attachments, comply

1 and conform with each Parties' obligations under **Sections**
2 **251 (a) & (b), and 252 of the Act.**

3
4 [In the Interconnection Attachment, section 1.1]

5 This Agreement also addresses Transit Traffic as described
6 in Section 2.2 below. This Attachment describes the
7 physical architecture for the interconnection of the Parties
8 facilities and equipment for the transmission and routing of
9 Telephone Exchange Service traffic between the respective
10 End User Customers of the Parties pursuant to **Sections**
11 **251 (a) and (b) of the Act.**

12
13 **Q. WHAT IS THE DISPUTE BETWEEN THE PARTIES WITH REGARD TO**
14 **THIS ISSUE?**

15 A. The RLECs want to limit the scope of the law governing this agreement to two
16 subsections of section 251, and to section 252 of the Telecommunications Act of
17 1996 ("Act"). The RLECs' limitation is an inaccurate statement concerning the
18 law that governs the agreement. In an effort to settle this dispute, MCI has stated
19 that it does not seek unbundling pursuant to section 251(c). At the same time,
20 however, the agreement should otherwise reference the Act generally, since the
21 Act does govern the agreement.

22 **Q. WHAT IS THE BACKGROUND TO THIS DISPUTE?**

23 A. MCI received its certification in 1997 to provide local exchange service in South
24 Carolina. At that time, MCI and the South Carolina Telephone Coalition
25 stipulated that MCI would not provide "local service" to any "customer" in a rural
26 Incumbent Local Exchange Carrier ("ILEC") service area unless MCI provided
27 "notice" to the affected ILEC and the Commission. The ILEC would then have

1 the opportunity to petition the Commission to exercise rights afforded it under
2 federal or state law.

3
4 When MCI notified the RLECs that it wished to negotiate an interconnection
5 agreement, so that it could provide local telecommunications services in their
6 service areas, Home and Farmers responded that as rural telephone companies
7 they are exempt from section 251(c) unbundling obligations under section
8 251(f)(2) of the Act. Section 251(f)(2) describes a procedure, pursuant to which
9 an ILEC may petition the Commission for a suspension or modification of
10 obligations under section 251(b) or 251(c).

11 **Q. IS THE QUESTION WHETHER OR NOT THE RLECS ARE EXEMPT**
12 **FROM SECTION 251(C) UNBUNDLING REQUIREMENTS RELEVANT**
13 **TO THE SUBJECT OF THIS ARBITRATION (I.E. MCI'S REQUEST FOR**
14 **INTERCONNECTION)?**

15 **A.** No. As stated in MCI's reply to the RLECs:

16 MCI does consider this a bona fide request for
17 interconnection under the Sections 251/252 of the
18 Communications of Act of 1934, as amended by the
19 Telecommunications Act of 1996.

20
21 An interconnection agreement is being sought because MCI
22 intends to provide facilities-based telephone exchange
23 service and exchange access within [the RLEC's] territory,
24 so Local Number Portability (LNP) is necessary.
25 Furthermore, an agreement covering direct interconnection
26 is appropriate in light of the fact that MCI will be operating
27 within [the RLEC's] territory.
28

1 The purpose of the language proposed by MCI with respect to section 251(c) of
2 the Act is to provide the RLECs with additional assurances that unbundled access
3 to network elements is not part of this MCI request.

4

5 **Q. WHAT IS YOUR UNDERSTANDING OF THE LAW GOVERNING THE**
6 **NEGOTIATION AND ARBITRATION OF INTERCONNECTION**
7 **AGREEMENTS?**

8 A. It is my understanding that Section 252 of the Act establishes the procedures
9 under which interconnection agreements are to be negotiated and arbitrated.
10 Section 252 expressly references requests for interconnection pursuant to section
11 251 of the Act. Under section 252 (e) (2), the Commission may reject a
12 *negotiated* portion of the agreement only if it discriminates against other
13 telecommunications carriers, or is not consistent with the public interest. Thus the
14 legal authority pursuant to which interconnection agreements are negotiated, and
15 under which the provisions that interconnection agreements are performed, is very
16 broad. When called upon to resolve issues by *arbitration*, the Commission must
17 “ensure that such resolution and conditions meet the requirements of section 251,
18 including the regulations prescribed by the Commission pursuant to section 251.”
19 47 U.S.C. §252(c)(1).

20

21 Thus, all of section 251 of the Act – and not only section 251 (a) and (b) – applies
22 in this case.

23

1 **Q. HAVE THE RLECS UNDERTAKEN TO DEMONSTRATE, PURSUANT**
2 **TO THE STIPULATION REFERENCED ABOVE, OR OTHERWISE**
3 **PURSUANT TO THE ACT, THAT THEY ARE ENTITLED TO A RURAL**
4 **EXEMPTION?**

5 A. No. Despite the notice conferred by the letters from MCI requesting negotiations
6 and the filing of this petition, the RLECs have claimed no exemption from the
7 obligations of section 251(b), which concerns resale, number portability, dialing
8 parity, access to rights-of-way, and reciprocal compensation. Nor have the
9 RLECs attempted to claim an exemption from section 251(c) following the
10 procedure of 251(f)(1) of the Act. Indeed, the RLECs have never asserted an
11 exemption for “rural” or “small” telephone companies provided for under section
12 251(f)(1) of the Act.

14 **Q. ARE THE RLECs EXEMPT FROM SECTION 251(b) OR 251(c) OF THE**
15 **ACT?**

16 A. No. MCI has prevailed in other jurisdictions with regard to ILECs claiming to be
17 “rural telephone companies”. Indeed, any rural exemption that Hargray had was
18 terminated by the Commission. Nor have the RLECs insisted on negotiation of
19 the inclusion of any language, other than as stated with regard to the “whereas”
20 clauses of the General Terms and Conditions, that would preserve any “rights”
21 they may have attempted to assert under the Act or, for that matter, the
22 stipulation. (Indeed, as referenced below, the RLECs have insisted that this
23 agreement be limited to interconnection for the purpose of service to be provided

1 by MCI to end users, including end users presently served by the RLECs, as
2 distinguished from service to be provided other types of “customers.”) In any
3 event, the additional language concerning section 251(c) that MCI has proposed
4 should allay the RLECs’ concerns in this regard. Therefore, MCI’s proposed
5 language should be adopted.

6
7 **Q. HAS MCI SUCCESSFULLY NEGOTIATED INTERCONNECTION**
8 **AGREEMENTS WITH OTHER ITCs FOR THE PURPOSE OF**
9 **PROVIDING TIME WARNER CABLE INFORMATION SERVICES**
10 **(“TIME WARNER CABLE” OR “TWCIS”) THE**
11 **TELECOMMUNICATIONS SERVICES ITS NEEDS TO EFFICIENTLY**
12 **PROVIDE VOIP SERVICES IN ICO TERRITORIES?**

13 **A.** Yes. MCI has successfully signed negotiated interconnection agreements with
14 Citizens Telephone, ALLTEL, North Pittsburg Telephone and Concord
15 Telephone for the purpose of providing Time Warner Cable the
16 telecommunications services it needs to efficiently provide VoIP services in the
17 ITCs’ territories in South Carolina and other states.

18
19 **2. LIMITATIONS OF THE PARTIES’ LIABILITY**

20
21
22 **ISSUE #5**

23 **Issue:** Should the parties’ liability to each other be limited, and
24 should they indemnify each other for certain claims?
25 (GT&C, sections 22.2-22.4)

26
27 **MCI position:** No. Neither party should escape liability for
28 wrongs it commits in the eyes of the law.

ILEC position: Yes. Such limitation of liability should be for their customer's actions, for their own intentional torts, and for their own gross negligence and willful misconduct.

Disputed Language: All of sections 22.2-22.4

Q. WHAT IS THE LANGUAGE PROPOSED BY THE RLECS?

A. The language, which is in **bold** type and, if adopted by the Commission , would be in the General Terms and Conditions attachment, is as follows:

22. LIABILITY AND INDEMNITY

22.1 DISCLAIMER

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY MAKES NO REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES OR FACILITIES IT PROVIDES UNDER THIS AGREEMENT. EACH PARTY DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

22.2 Indemnification

22.2.1 Each Party (the "Indemnifying Party") shall indemnify and hold harmless the other Party ("Indemnified Party") from and against loss, cost, claim liability, damage, and expense (including reasonable attorney's fees) to customers and other third parties for:

(1) damage to tangible personal property or for personal injury proximately caused by the negligence or willful misconduct of the Indemnifying Party, its employees, agents or contractors;

(2) claims for libel, slander, or infringement of copyright arising from the material transmitted over the Indemnified Party's facilities arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's customers; and

1 (3) claims for infringement of patents arising from
2 combining the Indemnified Party's facilities or services with,
3 or the using of the Indemnified Party's services or facilities in
4 connection with, facilities of the Indemnifying Party.

5 Notwithstanding this indemnification provision or any other provision
6 in the Agreement, neither Party, nor its parent, subsidiaries, affiliates,
7 agents, servants, or employees, shall be liable to the other for
8 Consequential Damages as defined in Section 22.3.3 of this
9 Agreement.

10 22.2.2 The Indemnified Party will notify the Indemnifying Party
11 promptly in writing of any claims, lawsuits, or demands by customers
12 or other third parties for which the Indemnified Party alleges that the
13 Indemnifying Party is responsible under this Section, and, if
14 requested by the Indemnifying Party, will tender the defense of such
15 claim, lawsuit or demand.

16 (1) In the event the Indemnifying Party does not promptly
17 assume or diligently pursue the defense of the tendered action,
18 then the Indemnified Party may proceed to defend or settle
19 said action and the Indemnifying Party shall hold harmless the
20 Indemnified Party from any loss, cost liability, damage and
21 expense.

22 (2) In the event the Party otherwise entitled to
23 indemnification from the other elects to decline such
24 indemnification, then the Party making such an election may,
25 at its own expense, assume defense and settlement of the claim,
26 lawsuit or demand.

27 (3) The Parties will cooperate in every reasonable manner
28 with the defense or settlement of any claim, demand, or
29 lawsuit.

30 22.3 Limitation of Liability

31 22.3.1 No liability shall attach to either Party, its parents,
32 subsidiaries, affiliates, agents, servants, employees, officers, directors, or
33 partners for damages arising from errors, mistakes, omissions,
34 interruptions, or delays in the course of establishing, furnishing,
35 rearranging, moving, terminating, changing, or providing or failing to
36 provide services or facilities (including the obtaining or furnishing of
37 information with respect thereof or with respect to users of the services or
38 facilities) in the absence of gross negligence or willful misconduct.

1 **22.3.2** Except as otherwise provided in Section 22, no Party shall be
2 liable to the other Party for any loss, defect or equipment failure caused
3 by the conduct of the first Party, its agents, servants, contractors or
4 others acting in aid or concert with that Party, except in the case of gross
5 negligence or willful misconduct.

6 **22.3.3** In no event shall either Party have any liability whatsoever to
7 the other Party for any indirect, special, consequential, incidental or
8 punitive damages, including but not limited to loss of anticipated profits
9 or revenue or other economic loss in connection with or arising from
10 anything said, omitted or done hereunder (collectively, "Consequential
11 Damages"), even if the other Party has been advised of the possibility of
12 such damages, except to the extent that such damages are caused by the
13 Party's gross negligence or willful misconduct

14 **22.4** **Intellectual Property**

15 Except as required by applicable law, neither Party shall have any
16 obligation to defend, indemnify or hold harmless, or acquire any
17 license or right for the benefit of, or owe any other obligation or have
18 any liability to, the other based on or arising from any claim, demand,
19 or proceeding by any third party alleging or asserting that the use of
20 any circuit, apparatus, or system, or the use of any software, or the
21 performance of any service or method, or the provision or use of any
22 facilities by either Party under this Agreement constitutes direct or
23 contributory infringement, or misuse or misappropriation of any
24 patent, copyright, trademark, trade secret, or any other proprietary
25 or intellectual property right of any third party.

27 **Q. WHAT IS MCI'S DISAGREEMENT WITH THIS LANGUAGE?**

28 **A.** There are two main points of disagreement.

29
30 MCI believes parties should be permitted to maintain legal rights to recover
31 damages if they are the victims of wrongs – either from torts or from breaches of
32 contract. If either party commits a wrong for which a remedy is recognized by the
33 law, the other party should not be compelled to abandon rights under law.

1 Second, it is inappropriate that MCI indemnify or hold harmless the RLECs for
2 certain actions. For example:

3 a) The parties may agree to negotiate concerning indemnification regarding
4 their own actions, or, perhaps, the actions of entities over which they have
5 ownership or control. Neither party to the Agreement, however, has any
6 ownership or control concerning the actions of end users, and particularly
7 as regards their intentional torts or other wrongdoing. Thus MCI should
8 not have to indemnify the RLECs for the defamatory statements or
9 copyright infringement by MCI's *end user customers*. Indeed, it would be
10 particularly inappropriate to require such language, where the effects of
11 indemnification are uncertain as to amount, and would be borne,
12 ultimately, by the customer base of the parties. Thus the language
13 proposed by the RLECs in section 22.2.1 (2), "**or the communications of**
14 **such Indemnifying Party's customers,**" is inappropriate.

15 b) The RLECs request in section 22.3.3 that the parties not be liable to each
16 other for "**any indirect, special, consequential, incidental or punitive**
17 **damages.**" MCI originally suggested that this statement be tempered by
18 the following phrase: "**except to the extent that such damages are caused**
19 **by the Party's gross negligence or willful misconduct.**" MCI suggested
20 this language because the parties should not be relieved of liability for
21 their gross negligence or willful misconduct, which is action beyond that
22 of mere negligence. Public policy should discourage rather than have the
23 effect of encouraging such wrongdoing. MCI also originally suggested

1 the language because sections 22.3.1 and 22.3.2, as proposed by the
2 RLECs, had contained exceptions for gross negligence or willful
3 misconduct.

4 c) In section 22.4, the RLECs propose that they have no obligation
5 whatsoever to defend the copyrights, trademarks or other intellectual
6 property of MCI. The parties' performance under the Agreement,
7 however, will necessarily involve some use by each party of the systems
8 or facilities of the other. Hence the parties should acknowledge that there
9 is no violation of law for the uses of systems and facilities that arise in the
10 normal course of interconnection with one another. At the same time,
11 however, for reasons similar to those discussed above, any and all
12 behavior with regard to the interactions between the parties should not be
13 excused or condoned. MCI's language is necessary to avoid situations in
14 which there is wrongdoing by either party but there is no remedy for the
15 consequences of such actions. Thus MCI had originally proposed the
16 insertion of the phrase "Except as required by applicable law," at the
17 beginning of section 22.4.

18
19 These examples of "legal" language proposed by the RLECs underscore the
20 difficulty in parsing through language that attempts to adjust the rights of the
21 parties in section 252 arbitrations. Thus MCI ultimately concluded that *none* of
22 the language proposed by the RLECs can or should be arbitrated by the
23 Commission. The Commission should not be put in the position of deciding

which party should be “protected” and which party (and its end users) should be stripped of its legal rights or defenses.

3. RLEC-PROPOSED RESTRICTIONS ON MCI LOCAL SERVICES

ISSUE #6

Issue: Should End User Customer be defined as only customers directly served by the Parties to the contract? (GT&C, Glossary, section 2.19)

MCI position: No. End User Customers may be directly or indirectly served. The Act expressly permits either direct or indirect service. (See Issue No. 10 (a)).

ILEC position: MCI must be providing service directly to End Users physically located in the LATA. No law says ITCs cannot limit interconnection agreements to non-wholesale arrangements. (See Issue No. 10 (b)).

Disputed Language: A retail business or residential end-user subscriber to Telephone Exchange Service provided directly or indirectly by either of the Parties.

ISSUE #10 (a)

Issue: Should MCI have to provide service (a) only directly to end users? (Interconnection, section 1.1)

MCI position: (a) No. End User Customers may also be indirectly served by the Parties through resale arrangements. The Act requires both Parties to the contract to allow resale. The same “directly or indirectly” language is used in section 2.22 of ITCs’ model contract for defining interexchange customers. The ITCs thus do not attempt to limit the resale ability of interexchange carriers, and there is no reason why they should try to do so regarding local exchange.

ILEC position: MCI must be providing service directly to End Users physically located in the LATA. No law says ITCs cannot limit interconnection agreements to non-wholesale arrangements. Also, the

Commission's rulings on "virtual NXX traffic" apply to ISP-bound traffic too. The FCC's ISP Remand Order never discussed ISP FX arrangement specifically so ITCs do not believe the FCC's compensation regime for ISP-bound traffic applies.

Disputed Language: This Interconnection Attachment sets forth specific terms and conditions for network interconnection arrangements between ILEC and CLEC for the purpose of the exchange of IntraLATA Traffic that is originated by an End User Customer of one Party and is terminated to an End User Customer of the other Party, **where each Party directly provides Telephone Exchange Service to its End User Customers physically located in the LATA.** This Agreement also addresses Transit Traffic as described in Section 2.2 below. This Attachment describes the physical architecture for the interconnection of the Parties facilities and equipment for the transmission and routing of Telephone Exchange Service traffic between the respective End User Customers of the Parties pursuant to **Sections 251 (a) and (b) of the Act.**

ISSUE #15

Issue: Does the contract need the limit of "directly provided" when other provisions discuss transit traffic, and the issue of providing service directly to end users also is debated elsewhere? (Interconnection, section 3.1)

MCI position: No. This language is unnecessary and confusing in light of other provisions of the contract.

ILEC position: Yes. ITCs want to make clear that this contract is only for traffic directly exchanged between the parties' directly served End Users.

Disputed Language: Dedicated facilities between the Parties' networks shall be provisioned as two-way interconnection trunks, **and shall only carry IntraLATA traffic originated or terminated directly between each Parties End User Customers.** The direct interconnection trunks shall meet the Telcordia BOC Notes on LEC Networks Practice No. SR-TSV-002275

ISSUE #17

1
2 **Issue:** Should the Parties be providing service directly to End
3 Users to port numbers? (Number portability, section 1.1)
4
5 **MCI position:** No. This is not required for any industry definition of
6 LNP. MCI is certified to do LNP for the End Users that
7 indirectly or directly are on its network. Concerns that
8 some resellers may not be telecommunications carriers or
9 must provide the same type telecommunications services
10 provided prior to the port is an illegal limit on what entities
11 MCI can provide wholesale telecommunications services.
12 The FCC has even allowed IP-Enabled (VoIP) service
13 providers to obtain numbers directly without state
14 certification See the FCC's CC Docket 99-200 order
15 (Adopted: January 28, 2005 Released: February 1, 2005)
16 granting SBC Internet Services, Inc. (SBCIS) a waiver of
17 section 52.15(g)(2)(i) of the Commission's rules. And
18 MCI know no law requiring that the same type of
19 Telecommunications Service provided prior to the port has
20 to be provided. That is antithetical to the goals of
21 competition.
22
23 **ILEC position:** ITCs believe that LNP can only be done for
24 telecommunications providers directly serving end users.
25 ITCs added to first version prohibiting LNP for customers
26 of MCI's wholesale telecommunications services a
27 provision allowing resale buy only by telecommunications
28 providers and only when same type of telecommunications
29 services as provided before the port is involved.
30
31 **Disputed Language:** The Parties will offer service provider local number
32 portability (LNP) in accordance with the FCC rules and
33 regulations. Service provider portability is the ability of
34 users of telecommunications services to retain, at the same
35 location, existing telecommunications numbers without
36 impairment of quality, reliability, or convenience when
37 switching from one telecommunications carrier to another.
38 **Under this arrangement, the new Telecommunications**
39 **Service provider must directly provide Telephone**
40 **Exchange Service or resell an end user local exchange**
41 **service through a third party Telecommunications**
42 **Service provider to the End User Customer porting the**
43 **telephone number.** The dial tone must be derived from a
44 switching facility that denotes the switch is ready to receive
45 dialed digits. **In order for a port request to be valid, the**
46 **End User Customer must retain their original number**

1 and be served directly by the same type of
2 Telecommunications Service subscribed to prior to the
3 port.
4

5 **Q. WHAT IS THE SUBJECT THAT IS COMMON TO ISSUES #6, #10(A), #15**
6 **AND #17?**

7 A. The RLECs want to restrict the traffic that MCI is permitted to send over the
8 interconnection trunks to that generated by end user customers directly connected
9 to MCI. The RLECs want to define the term "End user customer" as "(a) retail
10 business or residential end-user subscriber to Telephone Exchange Service
11 provided *directly* by either of the Parties." (Emphasis added.)
12

13 **Q. SHOULD THE RLECs BE PERMITTED TO RESTRICT WHO MCI CAN**
14 **HAVE AS A CUSTOMER?**

15 A. No, and the RLECs have not even attempted to articulate any justification for
16 their proposed restriction. MCI's choice of customers should not be restricted
17 and it should be permitted to provide services to end users both directly over its
18 own facilities and indirectly over the facilities of other certified carriers. Section
19 251(a)(1) of the Act contains no limitation on MCI's ability to use interconnection
20 to provide services to another carrier, which then serves its end users. Section
21 153 (47) defines "telephone exchange service" broadly, and contains no
22 limitations as to how such service may be provided. Also, each local exchange
23 carrier has the duty not to prohibit the resale of its services, 47 U.S.C. section

1 251(b)(1), and thus interconnected parties may serve end user customers through
2 resale arrangements.

3
4 In fact, rural ILECs in Ohio unsuccessfully tried to argue that MCI (in a similar
5 arrangement with Time Warner Cable) did not meet the requirements of section
6 153 of the Act because MCI was not offering service “directly” to the public

7 The Commission denies rehearing on Applicants’ fifth assignment
8 of error. The Commission agrees with Applicants that 47 U.S.C.
9 [paragraph] 153(a) (1) and (c) (2) require Applicants to
10 interconnect with other ‘telecommunications carriers’ and that 47
11 U.S.C [para] 153 defines a ‘telecommunications carrier’ as ‘any
12 provider of telecommunications services.’ The Commission also
13 observes, as do Applicants, that the 47 U.S.C. [para] 153 definition
14 of ‘telecommunications service,’ is ‘the offering of
15 telecommunications for a fee directly to the public, or to classes of
16 users as to be effectively available to the public, regardless of
17 facilities used.’ Applying this definition to MCI and its BFR, the
18 Commission notes that MCI will doubtless collect a fee for
19 providing telecommunications via interconnection with Applicants.
20 Further, MCI’s arrangement with Time Warner will make the
21 interconnection and services that MCI negotiates with Applicants
22 ‘effectively available to the public, regardless of the facilities
23 used.’¹

24
25 **Q. IN ANOTHER CONTEXT, HAVE THE RLECS PREVIOUSLY AGREED**
26 **TO THE LANGUAGE PROPOSED BY MCI?**

27 **A.** Yes. Indeed, the same “directly or indirectly” language that MCI requests in this
28 case is used in section 2.22 of the RLECs’ model contract to define an End User
29 of InterLATA service. That section is agreed upon language in the General Terms

¹ Order on Rehearing issued April 13, 2005, by the Public Utilities Commission of Ohio, “In the Matter of the Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., The Germantown Independent Telephone CO, and Doylestown Telephone Co.,” paragraph 15, pg.13.

1 and Conditions attachment of the contract being arbitrated before this
2 Commission. There is no legitimate reason why different language should be
3 required for local service end users.
4

5 **Q. DO THESE RLECs PERMIT OTHER CARRIERS TO EXCHANGE**
6 **“INDIRECT” TRAFFIC WITH THEM?**

7 A. Yes. For years, these RLECs have benefited from traffic aggregation done for
8 them by the BellSouth tandems. Traffic aggregation is not only beneficial to the
9 RLECs, it is a network engineering imperative. Absent traffic aggregation each
10 Local Exchange Carrier (“LEC”) would have to be directly connected with every
11 other LEC. In a world where new LECs are being created and eliminated daily,
12 direct connection with every LEC is not possible. Therefore, the RLECs
13 proposed contract language that restricts MCI’s traffic to only traffic originated
14 by customers directly connected to its network is unlawful and unreasonable.
15

16 **Q. WILL MCI ACCEPT TRAFFIC FROM END USERS NOT DIRECTLY**
17 **CONNECTED TO THE RLECs’ NETWORK?**

18 A. Yes. Aggregation of interconnection traffic makes both parties’ network
19 engineering more efficient. It is unreasonable for these RLECs to argue that MCI
20 cannot benefit from traffic aggregation. MCI will accept that traffic over its
21 interconnection trunks with the RLECs that is originated from or terminated to
22 end users that are not directly connected to the RLECs’ networks. The RLECs

1 should be required to do the same, and accept all properly formatted traffic that
2 MCI desires to send them.

3
4 **Q. WHY DO THE RLECS PROPOSE TO LIMIT THE SCOPE OF THE**
5 **INTERCONNECTION AGREEMENT TO INSTANCES IN WHICH**
6 **SERVICE IS PROVIDED TO AN END USER DIRECTLY BY MCI?**

7 A. These proposed RLEC contract provisions are an attempt to keep MCI from
8 providing certain services to Time Warner Cable. As stated by TWCIS in its
9 petition to intervene in this proceeding, to reach premises not served by its
10 network it is necessary for certain calls to traverse the public switched telephone
11 network ("PSTN"). TWCIS desires to utilize telecommunications service
12 providers, such as MCI, to deliver some of its traffic to the PSTN. By limiting the
13 scope of their interconnection agreement to only end user traffic directly
14 connected with MCI, the RLECs are attempting to prevent MCI from providing
15 telecommunications services to Time Warner Cable. The result of this will be to
16 limit the choices residential consumers can have for local service in the RLECs'
17 territories.

18
19 MCI proposes to add the phrase "or indirectly" to the ICA is so it can provide to
20 Time Warner Cable the telecommunications services it may need to compete in
21 the RLEC's territories. The local competition and customer choice that Time
22 Warner Cable will bring to these RLEC territories should provide the

1 Commission reason ample reason to accept the language proposed by MCI. The
2 promotion of local competition is in the public interest and it is the Commission's
3 primary mission to promote the public interest. MCI's proposed interconnection
4 agreement language that permits the exchange of traffic from end users
5 "indirectly" connected to either party's network will promote local competition,
6 advance the public interest, is technically and administratively necessary, and
7 therefore should be accepted.

8
9 **Q. WHAT IS THE RELATIONSHIP OF TIME WARNER CABLE TO MCI?**

10 A. Time Warner Cable has contracted with MCI to provide local public switched
11 network services in many parts of the country. As Time Warner Cable Vice
12 President Julie Y. Patterson said during the Commission's Feb. 3, 2005 hearing
13 on that company's certification to serve certain rural areas²

14
15 In addition to terminating calls to customers on the public switched
16 network, our PSTN partner, MCI, would assist us with delivering
17 calls to enhanced 911 public safety answering points. Calls destined
18 for 911 would be routed from our hybrid fiber coaxial network to a
19 gateway device where again the conversion would take place
20 between the Internet Protocol format into circuit switched format,
21 and the call would then be routed to MCI and then from MCI to the
22 appropriate 911 tandem switch or PSAP directly.

23
24 For calls that are not destined for the public switched network and in
25 fact are destined for another Time Warner Cable telephone customer,
26 the call would traverse our hybrid fiber coaxial plan[t], and Internet

² Docket No. 2003-362-C: Time Warner Cable Information Services (South Carolina), LLC –Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services. (See transcript pages 31 (23-25), 32 (1-25) and 33 (1)).

1 Protocol would never hit the gateway device and never perform a
2 conversion into circuit switched format and instead the call would be
3 routed to another Time Warner Cable customer entirely in the
4 Internet Protocol format.
5

6 **Q. ARE THERE ANY TECHNICAL REASONS WHY THE RLECs SHOULD**
7 **BE PERMITTED TO RESTRICT TRAFFIC MCI DELIVERS TO THEM**
8 **TO END USER TRAFFIC DIRECTLY CONNECTED TO MCI'S**
9 **NETWORK?**

10 A. No. The RLECs' switches should handle a byte of PSTN traffic from a customer
11 directly connected to MCI's network the same way they handle a byte of PSTN
12 traffic of a customer indirectly connected to MCI's network. In the local
13 switching of traffic, no matter how the customers' traffic reaches MCI's switch,
14 either through a loop we own directly or through some other way, the RLECs
15 should not be permitted to discriminate against certain types of traffic and have a
16 say on how MCI interfaces with the End User customer.
17

18 **Q. IN AN ATTEMPT TO JUSTIFY THEIR PROPOSED PROHIBITION ON**
19 **INDIRECT TRAFFIC, THE RLECS HAVE RAISED AN ISSUE**
20 **CONCERNING A POTENTIAL FOR RATE ARBITRAGE. WHAT IS**
21 **MCI'S RESPONSE TO THIS RLEC ISSUE?**

22 A. This issue is a red herring. It has no substance and only exists to cloud or confuse
23 matters at hand. In this instance, MCI has committed to provide the RLECs with
24 Calling Party Number ("CPN") and utilize separate local and toll trunk groups

1 from the exchange of traffic. (See also, direct testimony concerning Issues 8 and
2 14) As such, no new opportunities for rate arbitrage would be created.

3
4 **Q. THE RLECS HAVE STATED THAT “NEITHER THIRD PARTIES NOR**
5 **THEIR TRAFFIC ARE PART OF AN INTERCONNECTION**
6 **AGREEMENT BETWEEN THE RLECS AND MCI”. HOW DO YOU**
7 **RESPOND?**

8 A. This statement is incorrect. As the RLECs state in a footnote to that statement,
9 the agreement includes transit traffic, which is discussed (including the
10 compensation for such traffic) in negotiated language in the Interconnection
11 attachment. Transit traffic is traffic from, or destined to, a third party. Further,
12 the RLECs cannot be permitted to unreasonably discriminate against certain types
13 the traffic and they have no authority to restrict the types of traffic MCI may hand
14 off for termination. Section 251(b)(1) of the Act imposes the duty on all LECs
15 “not to prohibit, and not to impose unreasonable or discriminatory conditions or
16 limitations on, the resale of its telecommunications services.” In any event, the
17 RLECs seem to contend that so long as MCI “controls” the traffic then that traffic
18 can be terminated under the provisions of the agreement. The Commission
19 should understand that MCI will have the same amount of control over the traffic
20 to and from Time Warner Cable, as the RLECs themselves have over traffic to
21 and from their end user customers.

1 Q. WITH RESPECT TO ISSUE #15, THE RLECS IN THEIR RETURN TO
2 THE PETITION DISCUSS TRANSIT TRAFFIC. (P. 29) WHAT IS THE
3 REASON MCI RAISES THE POINT REGARDING TRANSIT TRAFFIC
4 IN ITS PETITION?

5 A. MCI raises the point regarding transit traffic in its petition because the RLECs
6 continue to contend that it is an issue. MCI is concerned that the transit traffic
7 language proposed by the RLECs, “**originated or terminated directly between**
8 **Parties End User Customers,**” may be interpreted to prohibit indirect traffic
9 from end user customers and its wholesale service arrangements with Time
10 Warner Cable and others. To the extent this is how the RLECs’ proposed
11 language will be interpreted, this language must be removed for all the reasons
12 stated previously.

13 Q. PLEASE DISCUSS ISSUE #17 WITH REGARD TO NUMBER
14 PORTABILITY.

15 A. The RLECs’ statement that there is no porting required as between a
16 telecommunications service provider and a non-telecommunications provider (p.
17 32) is not relevant. In this case, MCI *is* a telecommunications service provider,
18 and the services it is providing *are* telecommunications services. These services
19 include local switching, termination and transport of traffic, 911 services,
20 directory assistance, as well as LNP. It is not relevant how TWCIS characterizes
21 its services to its end users.

22

1 The RLECs claim that MCI should not be permitted to enable number portability
2 for Time Warner Cable's customers because Time Warner Cable is not a
3 telecommunications provider, and therefore what MCI proposes is not service
4 portability. The RLEC position is contrived and should be seen for what it is: an
5 effort to justify their goal of blocking facility-based competition in their
6 territories. MCI is requesting interconnection. MCI will be porting the numbers.
7 MCI is providing telecommunications service. In this instance, it does not matter
8 what Time Warner Cable, or any other third party that MCI may provide
9 telecommunications services, is doing. Time Warner Cable is not interconnecting
10 with the RLECs. MCI's local switch will be handling the traffic from Time
11 Warner Cable's customers, using its numbers or porting numbers to end users in
12 the RLECs' territories. Generally, the configuration is similar to a business
13 customer's PBX connecting its individual employees' offices and locations to
14 MCI's local network.

15
16 The RLECs cite no law preventing number porting in this situation. Further, 47
17 C.F.R. section 52.21(q) applies to the "ability of users of telecommunications
18 services" to port numbers; significantly, the reference in the rule is to "users," not,
19 "end users." Here MCI seeks to obtain numbers that will enable Time Warner
20 Cable, a user of telecommunications services, to provide its products and services.

21
22 **Q. HAS THE FCC ADDRESSED THIS ISSUE?**

1 A. Yes. The numbering services that MCI is doing elsewhere for Time Warner
2 Cable and is planning to do in South Carolina should not result in any
3 controversy. In fact, the FCC has already gone one step further than what MCI is
4 requesting and ordered ILECs to provide telephone numbers directly to a VoIP
5 provider.³ In its SBCIS order, the FCC clearly stated: “To the extent other
6 entities seek similar relief we would grant such relief to an extent comparable to
7 what we set forth in this Order.”

8
9 Further, the FCC did not condition granting similar waivers on completion of
10 its “request” that the North American Numbering Committee “review whether
11 and how our numbering rules should be modified to allow IP-enabled service
12 providers access to numbering resources in a manner consistent with our
13 numbering optimization policies.”⁴ The FCC also noted as follows:

14 a few commenters urge the Commission to address SBCIS’s
15 petition in the current IP-Enabled Services proceeding. We
16 decline to defer consideration of SBCIS’s waiver until final
17 numbering rules are adopted in the IP-Enabled Services
18 proceeding. The Commission has previously granted waivers of
19 Commission rules pending the outcome of rulemaking
20 proceedings, and for the reasons articulated above, it is in the
21 public interest to do so here.⁵
22
23

24 As MCI noted in its initial petition, the FCC does not condone ILEC efforts to
25 block VoIP traffic. See *In the Matter of Madison River Communications, LLC*

³ See, FCC’s CC Docket 99-200 Order, In the Matter of Administration of the North American Numbering Plan, released February 1, 2005 (“SBCIS Order”). In this Order the FCC granted SBCIS waiver of section 52.15(g)(2)(i) of its numbering rules so that SBCIS did not have to obtain an interconnection agreement in order to obtain numbers for its customers.

⁴ SBCIS Order, at Paragraph 11, pg. 7.

⁵ Ibid.

1 *and affiliated companies*, Consent Decree and Order, File No. EB-05-IH-0110,
2 DA 05-543 (March 3, 2005). The RLECs' efforts to restrict LNP activity for third
3 parties should likewise be rejected as an illegal effort to block Time Warner's
4 VoIP business and MCI's local exchange competition. More recently, the FCC
5 made it clear that it would not tolerate discrimination among different landline
6 porting of telephone numbers. Responding to comments from Time Warner,
7 Bright House Networks and Comcast Phone:

8 We take this opportunity to remind carriers that the Act requires,⁶ and we
9 intend to enforce, non-discriminatory number porting between LECs,
10 including our previous conclusion "that carriers may not impose non-
11 porting related restrictions on the porting out process." Because of these
12 requirements, when an incumbent LEC receives a request for number
13 portability, it is required to observe the same rules, including provisioning
14 intervals, as any other LEC and cannot avoid its obligations by pleading
15 non-porting related complications or requirements such as the presence of
16 DSL service on a customer's line. We also retain the authority to evaluate
17 specific objections to incumbent LEC's porting policies in proceedings
18 seeking enforcement action.⁷

19
20 This FCC order dealt with the situation of the customer being served by the
21 ILEC's DSL service being used to delay porting to a customer served by a cable
22 modem. The RLECs' proposed restriction on the porting telecommunications
23 carrier "directly" serving the end user is not any less discrimination.

⁶ 47 U.S.C. § 251(b)(2).

⁷ Paragraph 36 of FCC's March 25, 2005 WC Docket No. 03-251 order: In the Matter of BellSouth Telecommunications, Inc. Request for Declaratory Ruling that State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Services to Competitive LEC UNE Voice Customers In a separate statement, Commissioners Michael Copps and Jonathan Aidelstein emphasized: "We join today's decision, however, in one key aspect. We support the effort in this action to reinforce non-discriminatory number porting, including between wireline and cable carriers. Congress was clear that number portability is a basic duty of local exchange carriers. Because this decision accurately clarifies this requirement, we approve in part."

1 The FCC is not prohibiting IP-enabled service providers from obtaining
2 numbers and being subject to its number porting rules. Further, the FCC is not
3 holding up access to numbers until final numbering rules for IP-Enabled
4 Services are developed. And there are no restrictions on telecommunications
5 carriers, such as MCI, that would block it from issuing orders to port numbers
6 under current industry standards. The Commission should see through the
7 RLECs' contrived arguments to block facilities-based competition and accept
8 MCI's proposed language.

9 10 **4. DOES THE AGREEMENT NEED TO REFER TO VOIP?**

11 12 13 **ISSUE #7**

14
15 **Issue:** Does the contract need a definition of Internet Protocol
16 Connection? (GT&C, Glossary, section 2.28)

17
18 **MCI position:** No. MCI is proposing to eliminate the VoIP
19 discussions in the interconnection attachment that
20 reference this definition developed by the ITCs and
21 not from any FCC order or industry standards
22 document.

23
24 **ILEC position:** Yes. This definition is needed as ITCs want to
25 retain VoIP language and this describes where they
26 believe the ISP traffic is originated and terminated.

27
28 **Disputed Language: INTERNET PROTOCOL CONNECTION (IPC).**

29 **The IPC is the connection between the ISP and the**
30 **customer where end user information is originated or**
31 **terminated utilizing internet protocol.**

32 33 **ISSUE #9**

34
35 **Issue:** Should the contract define VoIP and provide for special
36 treatment of VoIP traffic? (GT&C, section 2.46)

1
2 **MCI position:** MCI is providing telecommunications services
3 under this contract and plans to treat all but ISP
4 traffic carried on its network the same way in terms
5 of rating traffic based on the physical location of the
6 end user. There is no need for the contract to
7 describe how VoIP traffic will be or has been rated
8 by the FCC.
9

10 **ILEC position:** SC ITCs want to specify in detail how VoIP traffic
11 should be treated in this contract.
12

13 **Disputed Language: VOIP OR IP-ENABLED TRAFFIC.**

14 **VoIP means any IP-enabled, real-time, multidirectional**
15 **voice call, including, but not limited to, service that**
16 **mimics traditional telephony. IP-Enabled Voice Traffic**
17 **includes:**

18 **Voice traffic originating on Internet Protocol**
19 **Connection (IPC), and which terminates on the Public**
20 **Switched Telephone Network (PSTN); and**

21 **Voice traffic originated on the PSTN, and which**
22 **terminates on IPC; and**

23 **Voice traffic originating on the PSTN, which is**
24 **transported through an IPC, and which ultimately,**
25 **terminates on the PSTN.**
26

27 **ISSUE #11**

28
29 **Issue:** Should references to VoIP traffic be included in the
30 contract? (Interconnection, section 1.2)

31
32 **MCI position:** No. MCI is a telecommunications service provider. It is
33 not proposing to treat VoIP traffic any differently than any
34 other non-ISP dial-up traffic, which is rating the service by
35 physical location of the originating and terminating points.
36 Carving out VoIP and calling some information and some
37 telecommunications services is confusing and unnecessary.
38

39 **ILEC position:** ITCs do not think they should provide
40 interconnection to carriers that predominant carry

VoIP and want to make clear by trying to define what VoIP services are information services versus telecommunications services in the contract. They also want to emphasize the rating by physical location for covered VoIP traffic.

Disputed Language: ILEC has no obligation to establish interconnection service arrangements to enable CLEC to solely provide Information Services. CLEC agrees that it is requesting and will use this arrangement for purposes of providing mainly Telecommunications Services and that any provision of Information Service by CLEC (**including VoIP Services**) will be incidental to CLEC's provision of Telecommunications Services. **The classification of certain forms of VoIP (as defined in this Agreement) as either Telecommunications Service or Information Service has yet to be determined by the FCC. Accordingly, ILEC has no obligation to establish an interconnection service arrangement for CLEC that primarily is for the provision of VoIP.**

ISSUE #12

Issue: Should there be language treating VoIP differently than other non- ISP-bound traffic? (Interconnection, section 1.6)

MCI position: No. VoIP does not need to be singled out.

ILEC position: Yes. ITCs want to emphasize how physical location will be used to rate VoIP traffic.

Disputed Language: **Jurisdiction of VoIP Traffic, as defined in this Agreement, is determined by the physical location of the End User Customer originating VoIP Traffic, which is the geographical location of the actual Internet Protocol Connection (IPC), not the location where the call enters the Public Switched Telephone Network (PSTN). In addition, the FCC has ruled that phone-to-phone calls that only utilize IP as transport are Telecommunication Services. Jurisdiction of such calls shall be based on the physical location of the calling and called End User Customer. Signaling information associated with IP-Enabled Voice Traffic must comply with Sections 3.5 and 3.6 of this Interconnection Attachment.**

1

2 **Q. HOW DO THE RLECs PROPOSE TO DEFINE AN INTERNET**
3 **PROTOCOL CONNECTION (“IPC”) AND HOW DOES IT RELATE TO**
4 **VOIP PROVISIONS IN DISPUTE IN THIS ARBITRATION?**

5 A. The RLECs propose to define an Internet Protocol Connection as **“the connection**
6 **between the ISP and the customer where end user information is originated**
7 **or terminated utilizing internet protocol.”** (see, RLEC proposed ICA section
8 2.28) Further, the RLECs propose that the **“Jurisdiction of VoIP Traffic, as**
9 **defined in this Agreement, is determined by the physical location of the End**
10 **User Customer originating VoIP Traffic, which is the geographical location**
11 **of the actual Internet Protocol Connection (IPC) and not the location where**
12 **the call enters the Public Switched Telephone Network (PSTN).”**

13

14 **Q. WHAT IS WRONG WITH THIS PROPOSAL?**

15 A. The regulation of VoIP services is not within the jurisdiction of the Commission,
16 it is within the jurisdiction of the FCC. Further, the traffic MCI will hand these
17 RLECs will be in standard PSTN format and will not be in Internet Protocol
18 format. Any traffic MCI receives from Time Warner Cable will be translated into
19 industry standard PSTN format before it is handed to the RLECs. So, VoIP need
20 not be defined by the Commission and the jurisdiction of VoIP traffic cannot be
21 defined by the Commission.

22

1 **Q. WHY DO THE RLECS PROPOSE THIS LANGUAGE?**

2 A. The effect of the RLECs' definition, when considered with the RLECs' other
3 proposed language dealing with VoIP (see issues 11 and 12), is that MCI would
4 not be permitted to provide telecommunications services to VoIP service
5 providers.

6

7 **Q. THE RLECS ARGUE THAT IT HAS NOT BEEN DETERMINED IF**
8 **CERTAIN TYPES OF TRAFFIC (I.E. VOIP) ARE**
9 **TELECOMMUNICATIONS AND THEREFORE CERTAIN TYPES OF**
10 **TRAFFIC (I.E. VOIP) SHOULD BE EXCLUDED FROM**
11 **INTERCONNECTION REQUIREMENTS. WHAT IS YOUR RESPONSE**
12 **TO THIS ARGUMENT?**

13 A. The RLECs' argument is meaningless to the matters before this Commission in
14 this arbitration. As stated before, MCI is providing telecommunications services
15 and will only hand the RLECs traffic in PSTN format. MCI has requested direct
16 interconnection with these RLECs under sections 251/252 of the Act. MCI views
17 the services it will provide in this arrangement as telecommunications services
18 and thus does not see a need to complicate this agreement by adding language on
19 what VoIP services are or are not "information" services.

20

21 **Q. ARE THE FCC AND COURTS ADDRESSING "INFORMATION"**
22 **SERVICE?**

1 A. Yes. During 2004, the FCC issued three major orders on the classification of IP-
2 enabled services. In WC Docket No. 03-45, the FCC ruled that Pulver.com's Free
3 World Dialup service is an "unregulated interstate information service." In WC
4 Docket 02-362, the FCC denied AT&T's request for a declaratory ruling that
5 access charges do not apply to its "phone-to-phone" IP telephony service, which
6 employs VoIP transport to connect two users on the circuit-switched PSTN. In
7 WC Docket No. 03-211, the FCC preempted the Minnesota PUC and other state
8 commissions from regulating services like Vonages DigitalVoice Service;
9 however, the FCC referred the question whether such similar IP-enabled services
10 should be classified as unregulated "information services" or regulated
11 "telecommunications" to its IP-Enabled Services proceeding (WC Docket No. 04-
12 36). The issue whether cable modems are an "interstate information service", as
13 the FCC tentatively concluded in CC Docket 00-185, or whether cable modem
14 service is a "telecommunications service" or has a "telecommunications
15 component," is before the U.S. Supreme Court in the Brand X case. The high
16 court recently held oral argument on the FCC's request for review of the 9th
17 Circuit U.S. Court of Appeals' overturn of the FCC's conclusion regarding cable
18 modem services.

19
20 **Q. WILL MCI ACCEPT TRAFFIC FROM THE RLECs THAT WAS**
21 **ORIGINATED IN VoIP FORMAT?**

22 A. Yes. The RLECs offer broadband service to end users and undoubtedly some of
23 those end users run VoIP applications over those broadband connections. As

1 such, MCI is undoubtedly already accepting traffic from the RLECs that
2 originated in VoIP format. When a RLEC VoIP customer calls a MCI PSTN
3 customer, that call must be translated into PSTN format (i.e. TDM and SS7) to
4 terminate. MCI will not discriminate against RLEC traffic originated using VoIP,
5 and will accept such traffic on direct interconnection trunks established under this
6 interconnection agreement, provided the traffic is translated by the RLEC (or its
7 agent) into industry-standard PSTN format. MCI requests and expects equal
8 treatment from the RLECs.

9
10 **Q. WITH REGARD TO ISSUE #9, THE RLECS STATE THAT THEY HAD**
11 **PROPOSED TO REMOVE THE FOLLOWING LANGUAGE THAT IS**
12 **DISPUTED: “VOICE TRAFFIC ORIGINATING ON THE PSTN, WHICH**
13 **IS TRANSPORTED THROUGH AN IPC, AND WHICH ULTIMATELY,**
14 **TERMINATES ON THE PSTN.” (PP. 20-21) WHAT IS MCI’S**
15 **RESPONSE?**

16 **A.** The RLECs are correct in stating that the FCC has held that the traffic that is the
17 subject of this definition is not currently exempt from interstate access charges.
18 The larger issue, however, is whether *any* language relating to VoIP is necessary
19 in this agreement. For the reasons discussed herein, such language is not
20 necessary and should not be included.

21
22 **B. BILLING NOTICES AND PAYMENT DISPUTES**
23

24 **ISSUE #2**

1
2 **Issue:** How much time should the party receiving a default notice
3 for non-payment have to cure the problem and how should
4 it be notified? (GT& C, section 3.1.3, 26)

5
6 **MCI position:** Because the problem often may be non-receipt of a
7 paper bill, MCI needs an emailed or faxed copy of
8 the bill to accompany an emailed notice (since
9 another letter may go to the wrong location again),
10 and it needs 30 days to respond. Even with 30 days
11 MCI would not be able to enter the paper bill in its
12 audit systems, and would barely have time to gain
13 approvals and processing of emergency payment.

14
15 **ILEC position:** ITCs believe 10 days written notice should be
16 adequate time to respond to a written notice.

17
18 **Disputed Language:** Notwithstanding the above, ILEC may terminate this
19 Agreement if CLEC is more than 30 days past due on any
20 undisputed payment obligation under this Agreement;
21 provided that ILEC notifies CLEC of such default and
22 CLEC does not cure the default within thirty (30) days ten
23 (10) days of receipt of written notice thereof. of receipt
24 an emailed notice to person designated in contract to
25 receive billing default notices with a copy of the bill
26 attached or the time a copy of the bill would be separately
27 faxed.

28
29
30 Billing Notices for nonpayment should be emailed along
31 with copy of bill at issue (either emailed or faxed at same
32 time as email) sent to:

33 Earl Hurter
34 Sr. Manager - Line Cost Management
35 312-260-3599
36 Fax: 312-470-5611
37 email: earl.hurter@mci.com
38

39 **Q. IS THERE ANY ISSUE, AS THE RLECS SUGGEST, REGARDING**
40 **WHETHER MCI SHOULD PAY ITS BILLS ON TIME?**

41 **A.** No. The issue is what is commercially reasonable with regard to the period for
42 notice of termination. Given the volume of transactions between carriers

1 generally, a 30 day notice period is commercially reasonable. Further, it is
2 preposterous for the RLECs to propose a 10 day notice period and then state that
3 “extending the period [for payment to] 30 days only encourages further delay in
4 payment.” The additional 20 days will not “encourage” MCI to engage in delay.
5 The purpose of this ICA provision is so that service will not be disrupted without
6 a reasonable opportunity for cure.
7

8 **Q. DOES MCI HAVE A 30 DAY NOTICE OF TERMINATION PERIOD**
9 **WITH OTHER ILECs?**

10 A. Yes. While I did not conduct an exhaustive evaluation of the vast number of
11 MCI/ILEC interconnection agreements, it appears from my research that a notice
12 of termination period of at least 30 days is standard for MCI and this is true for
13 MCI’s agreements with ILECs of all sizes throughout the United States.
14

15 **Q. SHOULD MAIL DELIVERY BE THE ONLY MEANS FOR SENDING**
16 **NOTICE OF TERMINATION?**

17 A. No. It is reasonable and customary, given today’s electronic media, for notices to
18 be transmitted by media other than mail delivery. Such alternative forms of
19 transmissions ensure that notice will be received. MCI, like other carriers, has
20 experienced situations in which notices were mailed to the wrong address. The
21 consequences of such errors are dire, particularly when compared to the minimal
22 cost of sending notice by alternative means.
23

1 **Q. DO THE RLECS APPEAR TO CONTEST MCI'S PROPOSAL FOR**
2 **SENDING NOTICE OF NONPAYMENT OR OF TERMINATION VIA**
3 **SOME ALTERNATIVE MEANS?**

4 A. No. The RLECs' return to MCI's petition discusses the period applicable to
5 notices, but not the proposal to email or fax notices.
6

7 **Q. HOW SHOULD ISSUE 2 BE RESOLVED?**

8 A. A notice for termination period of at least 30 days is standard for MCI and is
9 reasonable in this case. Therefore, MCI's proposed agreement language should
10 be accepted and the proposed language of the RLECs' should be rejected.

11 **ISSUE #4**

12
13 **Issue:** Should parties be required to keep providing service to one
14 another during dispute resolution over payment for service?
15 (GT&C, Section 13.3.1)

16
17 **MCI position:** Yes. MCI believes that ITCs should not be able to
18 disrupt service to customers during the pendency of
19 a dispute over billing as this language would allow.
20 The ITCs should be allowed to discontinue service
21 only if MCI loses the dispute and payment is not
22 being made. The ITCs can petition the Commission
23 to discontinue service and disrupt end users if MCI
24 is viewed as abusing dispute process to not pay
25 bills.
26

27 MCI believes that requiring escrow payments of
28 disputed amounts is a burden it should not have to
29 bear if the ILEC is wrongfully or inaccurately
30 billing it. The dispute process can take a great deal
31 of time in reaching a resolution and MCI cannot
32 agree to pay monies out that it does not believe it
33 owes.
34

1 **ILEC position:** ITCs would agree if MCI would pay into escrow account
2 during dispute. But the ITC still believe they should be able
3 to cut off service during a billing dispute.
4

5 **Disputed Language:** Continuous Service. The Parties shall continue providing
6 services to each other during the pendency of any dispute
7 resolution procedure (**other than a dispute related to**
8 **payment for service**), and the Parties shall continue to
9 perform their payment obligations including making
10 payments in accordance with this Agreement.
11

12 **Q. IS IT INDUSTRY PRACTICE THAT CARRIERS DISCONNECT OR**
13 **OTHERWISE DISRUPT SERVICE DURING THE PENDENCY OF A**
14 **BILLING DISPUTE?**

15 A. No. It is industry practice, and is typically expected by regulators, that carriers
16 *not* disconnect or refuse services, for example, to end users for non-payment of
17 disputed charges. The RLECs should not be able to disconnect or otherwise
18 disrupt service to MCI when a billing dispute arises. The Commission is a forum
19 for resolution of disputes arising under interconnection agreements, and there
20 should be an orderly process for resolving disputes, rather than a resort to self-
21 help that, as here, could have dire consequences for South Carolina consumers
22 and businesses.
23

24 **Q. THE RLECS PROPOSE, IN THEIR RETURN TO THE PETITION, FOR**
25 **PAYMENT OF DISPUTED AMOUNTS INTO ESCROW. HOW DO YOU**
26 **RESPOND?**

27 A. MCI believes that requiring escrow payments of disputed amounts is a burden it
28 should not have to bear if the RLEC is wrongfully or inaccurately billing it. The
29 dispute process can take a great deal of time in reaching a resolution, and MCI

cannot agree to pay monies that it does not believe it owes, even to an escrow account.

C. IDENTIFICATION OF THE CALLING PARTY

ISSUE #3

Issue: Should companies be required to provide JIP information? (GT& C, section 9.5)

MCI position: No. This is not a mandatory field. No other ILEC has asked that MCI provide this information, let alone on 90% of calls. The ATIS Network Interconnection Interoperability Forum is still working on rules for carriers choosing to populate this field for VOIP traffic and wireless carriers. The revised instructions for JIP for landline carriers was only released in December. MCI does not oppose putting "OR" as a condition of providing this or CPN on calls. But there is only a recognized industry standard to provide CPN currently.

ILEC position: SC ITCs believe this information is necessary to establish the jurisdiction of calls.

Disputed Language: The Parties shall each perform traffic recording and identification functions necessary to provide the services contemplated hereunder. Each Party shall calculate terminating duration of minutes used based on standard automatic message accounting records made within each Party's network. The records shall contain the information to properly assess the jurisdiction of the call including ANI or service provider information necessary to identify the originating company, including **the JIP and** originating signaling information. The Parties shall each use commercially reasonable efforts, to provide these records monthly, but in no event later than thirty (30) days after generation of the usage data.

ISSUE #14

1
2 **Issue:** Should Parties be required to provide (a) CPN and JIP; and
3 (b) pay access charges on all unidentified traffic?
4 (Interconnection, section 2.7.7)

5
6 **MCI position:** MCI (a) is willing to provide CPN or JIP (but not both as
7 the latter is an optional SS7 parameter. (No other ILEC has
8 proposed that MCI must provide JIP) and (b) believes that
9 all unidentified traffic should be priced at same ratio as
10 identified traffic. A price penalty should not be applied for
11 something MCI does not control. MCI is open to audits
12 and studies by either Party if one or the other thinks the
13 10% or more of traffic missing CPN information is an
14 effort to avoid access charges.

15
16 **ILEC position:** SC ITCs believe they need JIP and CPN data 90% of the
17 time to determine jurisdiction and want to apply a penalty
18 of paying access charges to encourage its provision when
19 levels of unidentified traffic are above 10%.

20
21 **Disputed Language:** If either Party fails to provide accurate If either Party fails
22 to provide accurate CPN (valid originating information) **or**
23 **and** Jurisdiction Information Parameter (“JIP”) on at least
24 ninety percent (90%) of its total originating INTRALATA
25 Traffic, then traffic sent to the other Party without CPN or
26 JIP (valid originating information) will be handled in the
27 following manner. **All unidentified traffic will be treated**
28 **as having the same jurisdictional ratio as the ninety**
29 **(90%) of identified traffic.** The remaining 10 percent
30 (10%) of unidentified traffic will be treated as having
31 the same jurisdictional ratio as the ninety (90%) of
32 identified traffic. If the unidentified traffic exceeds ten
33 percent (10%) of the total traffic, all the unidentified
34 traffic shall be billed at a rate equal to ILEC’s
35 applicable access charges. The originating Party will
36 provide to the other Party, upon request, information to
37 demonstrate that Party’s portion of traffic without CPN
38 or JIP traffic does not exceed ten percent (10%) of the
39 total traffic delivered. The Parties will coordinate and
40 exchange data as necessary to determine the cause of the
41 CPN or JIP failure and to assist its correction.

42
43 **ISSUE #16**

44
45 **Issue:** Should Parties have to provide the specified signaling
46 parameters on all calls? (Interconnection, section 3.6)

1
2 **MCI position:** No. Percentages for CPN have been set above and
3 JIP is not mandatory. MCI will agree not to alter
4 parameters received from others, but it cannot
5 commit to more than 90% CPN.
6
7 **ILEC position:** Yes. This information should be provided on all calls even
8 though percentages set elsewhere are less than 100%.
9
10 **Disputed Language:** Signaling Parameters: ILEC and CLEC are required to
11 provide each other with the proper signaling information
12 (e.g. originating accurate Calling Party Number, JIP and
13 destination called party number, etc.) pursuant 47 C.F.R. §
14 64.1601, to enable each Party to issue bills in an accurate
15 and timely fashion. All Common Channel Signaling (CCS)
16 signaling parameters will be passed along as received
17 **provided** including CPN, JIP, Originating Line, Calling
18 party category, Charge Number, etc. All privacy indicators
19 will be honored
20

21 **Q. WHERE ARE MCI'S LOCAL (CLASS 5) SWITCHES THAT WOULD**
22 **HANDLE TRAFFIC TO THESE RLECS LOCATED?**

23 A. MCI's class 5 switches that will handle traffic with these RLECs are located in
24 Atlanta and Charlotte. Thus, there are a limited number of switches from which
25 the RLECs would be receiving call information from MCI.
26

27 **Q. HOW DOES THE USE OF MCI LOCAL SWITCHES DIFFER FROM**
28 **ILEC SWITCHES, INCLUDING INDEPENDENT TELEPHONE**
29 **COMPANY SWITCHES?**

30 A. MCI local switches are used much differently in the network than ILEC switches.
31 Like other Competitive Local Exchange Carriers ("CLECs"), MCI uses its local
32 switches to cover multiple ILEC serving areas, which cross state lines and LATA

1 boundaries. Usually, ILEC switches are much more limited in their geographic
2 reach.

3
4 **Q. PLEASE DESCRIBE “JURISDICTION INFORMATION**
5 **PARAMETER” (“JIP”)?**

6 A. JIP is a six-digit field contained within the packet of an SS7 message. “SS7” is
7 “signaling system 7.” SS7 is a global standard for telecommunications defined
8 by the International Telecommunication Union (“ITU”) Telecommunication
9 Standardization Sector (“ITU-T”). The standard defines the procedures and
10 protocol by which network elements in the PSTN exchange information over a
11 digital signaling network to effect call setup, routing, local number portability
12 (“LNP”) and control. JIP can be used in certain situations to convey information
13 about the location of the calling party.

14
15 **Q. IS JIP AN INDUSTRY STANDARD?**

16 A. No. As conceded by the RLECs, populating the JIP field within the SS7 message
17 is optional. In January of this year, the Network Interconnection Interoperability
18 Forum (“NIIF”) released recommend rules for how the JIP field within the SS7
19 message could be utilized. The NIIF is a committee of the Alliance for
20 Telecommunications Industry Solution (“ATIS”). Another committee of ATIS,
21 the Ordering and Billing Forum (“OBF”), is investigating many other open issues
22 regard to the JIP. Thus, reference to JIP suggested by the RLECs is inappropriate,
23 particularly where the agreed-upon language states that “(e)ach Party shall

1 calculate terminating duration of minutes used based on standard automatic
2 message accounting records.”

3
4 **Q. DOES BELLSOUTH REQUIRE CARRIERS IT INTERCONNECTS WITH**
5 **IN SOUTH CAROLINA TO USE JIP?**

6 A. No. BellSouth does not use the JIP to determine traffic jurisdiction or require
7 LECs that it interconnects with to populate JIP.

8
9 **Q. WHAT IS THE INDUSTRY STANDARD IN THIS REGARD?**

10 A. CPN is the recognized industry standard for transmitting messaging regarding the
11 jurisdictional origin of calls. The FCC has determined that interstate passage of
12 CPN is in the public interest because, consistent with the statutory intent
13 underlying Sections 1 and 7 of the Communications Act of 1934, as amended,
14 CPN makes many new services and efficiencies possible. The FCC has also
15 adopted a federal rule and model for the passing of CPN. (See 47 C.F.R. Part 64)
16 With CPN, information regarding the jurisdictional origin of calls is passed
17 between carriers so that they may appropriately distinguish and rate calls to
18 determine appropriate compensation between carriers (e.g., for reciprocal
19 compensation or for access charges). MCI's switches pass CPN to other carriers
20 in accordance with industry standards.

21
22 **Q. WHAT DOES MCI RECEIVE FROM OTHER CARRIERS?**

1 A. MCI receives CPN and JIP. However, MCI uses CPN for call rating on the traffic
2 it handles, including traffic originated by these RLECs as VoIP. It is standard
3 industry practice to compare the NPA-NXX codes of the calling and called party
4 to determine the proper rating of a call. A call is rated as local if the called
5 number is assigned to a rate center within the local calling area of the originating
6 rate center.

7
8 **Q. WHY HAS JIP BEEN SUGGESTED BY SOME IN THE INDUSTRY?**

9 A. A major reason for the development of JIP relates to the growth of the wireless
10 industry: for example, if someone from New York uses a cell phone in a Florida
11 hotel, the cell phone number will indicate what carrier is being used to originate
12 the call, and the extra six digits in JIP could indicate the physical cell site location
13 that originated the call. In the wireless context, this additional information could
14 determine the routing of the call, and facilitate access to toll-free calls, which
15 sometimes are blocked at present. In contexts other than wireless, the industry
16 has been concerned about “phantom traffic,” which is defined as calls that lack
17 sufficient information to determine the jurisdiction (i.e., interstate or intrastate) of
18 the traffic for billing purposes.

19
20 **Q. IS JIP A PANACEA FOR THE JURISDICTIONAL RATING OF**
21 **TRAFFIC?**

22 A. No. If a call is generated from a wireline phone and terminates with a wireless
23 phone, it is difficult to know in what location the call termination has occurred,

1 because that JIP field has not yet been addressed. It is difficult for the terminating
2 carrier to determine in what city the caller was located. This could affect, for
3 example, the rates charged. The NIIF committee is working on this issue.
4

5 **Q. WILL MCI PROVIDE JIP ON THE TRAFFIC IT HANDS OFF TO THE**
6 **RLECs?**

7 A. Yes. However, it will be the JIP of MCI's switch and therefore cannot be used to
8 accurately rate traffic.
9

10 **Q. WHY CAN'T THE JIP PROVIDED BY MCI'S LOCAL SWITCH BE**
11 **USED BY THE RLECs TO ACCURATELY RATE TRAFFIC?**

12 A. MCI's local switches cover more than one RLEC local calling area. For example,
13 assume an end user that originates a call is physically located in Columbia, South
14 Carolina. Also assume that the MCI local switch (i.e., the "JIP") is physically
15 located in Charlotte, North Carolina. (In fact, as described above, this is the
16 case.) And next, assume the end user at the terminating end of the call is
17 physically located in Columbia, South Carolina. Under these facts - which are not
18 only possible, but probable, given the location of MCI's switch serving the
19 Columbia area - the JIP to the terminating end user would indicate that this is a
20 toll call from Charlotte, NC (and that access charges are due), even though the
21 originating end user and terminating end user are both located in Columbia, South
22 Carolina, and the call should be appropriately rated and billed to the originating
23 end user as a local call.

1

2 **Q. ARE THERE ALSO INSTANCES IN WHICH THE USE OF JIP TO**
3 **ESTABLISH JURISDICTION WOULD RESULT IN CATEGORIZING A**
4 **TOLL CALL AS A LOCAL CALL?**

5 A. Yes. For instance, assume the originating end user is physically located in
6 Columbia, South Carolina; the switch is physically located in Charlotte, North
7 Carolina; and the terminating end user is physically located in Charlotte, North
8 Carolina. Clearly this situation – which, again, is to be expected, given the
9 location of MCI's switches – should be appropriately rated and billed as a toll
10 call. The JIP to the terminating end user, however, would erroneously
11 characterize the call as a local call.

12

13 **Q. THE RLECS MAINTAIN THAT THE CPN FOR SOME TRAFFIC IS**
14 **DISGUISED AS LOCAL TRAFFIC IN ORDER FOR CARRIERS TO**
15 **AVOID THE PAYMENT OF ACCESS CHARGES. WHAT IS YOUR**
16 **RESPONSE?**

17 A. MCI does not alter the CPN and will not alter the CPN. Indeed, CPN cannot be
18 selectively manipulated or deleted in route.

19

20 **Q. CAN JIP BE ALTERED TO DISGUISE TRAFFIC IN ORDER FOR**
21 **CARRIERS TO AVOID THE PAYMENT OF ACCESS CHARGES?**

22 A. Yes, it is possible to alter the JIP to disguise traffic in order to avoid the payment
23 of access charges. As such, the use of JIP for call rating would not solve the

1 problem the RLECs seek to remedy and, as discussed herein, would create new
2 problems.

3
4 **Q. IS THE EXAMPLE USED BY THE RLECS RELATING TO THE USE OF**
5 **JIP OF LIMITED VALUE TO THE COMMISSION IN RESOLVING THIS**
6 **ISSUE?**

7 A. Yes. The RLECs offer an example in which an end user, located in California, is
8 calling South Carolina. The example does not include the factual situation in
9 which the originating end user is located in South Carolina, and the MCI local
10 switch is located in North Carolina or Georgia. Another reason the example cited
11 by the RLECs is inapposite is because MCI uses long distance trunks, not local
12 trunks, to transport long distance calls; the dispute between the parties does not
13 involve long distance trunks. In addition, the parties have the right to audit
14 traffic.

15
16 **Q. COULD THESE PROBLEMS BE CORRECTED BY “MULTIPLE” JIPS**
17 **AS SUGGESTED BY THE RLECs?**

18 A. No. MCI's class 5 switches cannot provide a unique JIP for every local calling
19 area that they serve.

20
21 **Q. CAN MCI PROVIDE A UNIQUE JIP FOR EVERY LOCAL CALLING**
22 **AREA SERVED BY EACH OF ITS CLASS 5 SWITCHES?**

1 A. No. A requirement that CLECs provide a unique JIP for every local calling area
2 served by a CLEC switch would require the scope of the CLEC switch to be
3 limited because separate partitions would have to be created for each JIP and
4 separate look up tables would have to be managed and created for each RLEC
5 local calling area. This would create significant additional equipment, software
6 and administrative cost and would create network inefficiency. The economies of
7 scale available to CLECs for switching would be drastically reduced. A
8 requirement that CLECs provide RLECs with a unique JIP for every local calling
9 area served by the CLEC switch would cause CLECs to limit the calling area
10 scope of their class 5 switches (i.e. exit certain markets) and would undermine the
11 FCC's recent TRRO decision that CLECs are not impaired without access to
12 ILEC unbundled switching.

13
14 **Q. WHAT DOES MCI PROPOSE SHOULD BE USED BY THE RLECS TO**
15 **RATE TRAFFIC?**

16 A. Since the use of JIP for call rating would solve nothing and create many
17 problems, MCI proposes to send the RLEC the industry standard CPN, just as we
18 do for all other carriers. The RLECs should use the CPN to rate traffic. MCI will
19 continue to do the same.

20
21 **Q. WOULD THE RLECS BE PREJUDICED BY THE USE OF CPN FOR**
22 **CALL RATING?**

1 A. No. The RLEC can trace the jurisdiction of the call based on the ported number
2 and the NPA-NXX of the call. As described above, there will be a limited
3 number of local switches that MCI will be using to carry calls to and from the
4 ILEC's service areas.

5
6 **Q. WHAT ABOUT OTHER CLECS ADOPTING THIS AGREEMENT?**

7 A. Again, in order for other CLECs to obtain the terms and conditions of MCI's
8 interconnection agreement with the RLECs they would be required to adopt the
9 entire agreement. As such, the RLECs would have the audit rights contained in
10 the proposed agreement to police the actions of other CLECs and could bring
11 complaints if CPNs are being altered.

12
13 **Q. THE RLECS ALSO MAINTAIN THAT TOLL CALLS ARE**
14 **INCORRECTLY IDENTIFIED BY CPN WHEN TELEPHONE NUMBERS**
15 **ARE ASSIGNED TO END USERS WHO ARE NOT PHYSICALLY**
16 **LOCATED IN THE RATE CENTER WHERE THE NUMBER IS**
17 **ASSIGNED. WHAT IS YOUR RESPONSE?**

18 A. First of all, it is and has been for many years, standard industry practice for both
19 the RLECs and MCI to establish virtual NXX codes for certain customers. MCI
20 has, however, voluntarily agreed not to assign virtual NXX codes to Time Warner
21 Cable customers in this instance. As this issue relates to dial-up ISP Bound
22 traffic, this issue is discussed below with regard to Issue #8.

1 **Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE #3?**

2 A. The Commission should adopt MCI's proposed language.

3
4 **Q. WITH REGARD TO ISSUE #14, IS IT REASONABLE FOR THE RLECs**
5 **TO IMPOSE ACCESS CHARGES ON LOCAL TRAFFIC?**

6 A. No. The RLECs contend that if greater than 10 percent of traffic exchanged is
7 unidentified then they should be permitted to assess access charge on the
8 unidentified traffic. MCI is willing to work with the RLECs if less than 90% of
9 either Party's traffic has CPNs, but it does not agree to be subject to a penalty for
10 the unidentified traffic. In the event that unidentified traffic occurs, it should be
11 rated at the same ratio of local to toll as the identified traffic. Concerns over fraud
12 should be dealt with by either party through audit provisions and cooperative
13 efforts, per the last sentence of agreed language above, should be used first to find
14 out why large percentages of traffic are missing CPN information.

15
16 **Q. WITH REFERENCE TO ISSUE #16, SHOULD THE PARTIES HAVE TO**
17 **PROVIDE THE SPECIFIED SIGNALING PARAMETERS?**

18 A. Parties should be required to provide signaling parameters in compliance with
19 industry standards. MCI expects that its business will be highly residential in the
20 areas served by the RLECs, and because of this, calling party number will exist on
21 most calls. However, just as occurs today with all other ILECs, MCI cannot avow
22 that CPN will exist on all calls.

1 **Q. WHY DOESN'T CPN EXIST ON ALL CALLS TODAY?**

2 A. One reason that CPN does not exist on on calls is because Business customers
3 with PRI Trunking are allowed to set CPN at their PBX and deliver that
4 information to the local switch to which they are physically connected. In most
5 cases, the customer delivers a CPN that is physically located within the
6 customer's building facility. There are situations, however, in which a customer
7 prefers to establish an 8XX Toll Free Telephone number or even a North
8 American Dialing plan telephone number that is at a different Call Center and is
9 physically located in another part of the country. The Primary Rate Interface
10 establishes the CPN field and is passed on to the Local switch, which in turn
11 passes this information on to the PSTN via SS7. The situation where the 8XX
12 Toll Free is set as CPN is a normal business practice among Business customers
13 throughout the United States and complies with rules as set forth by the Federal
14 Trade Commission populating CPN for Telemarketing centers. As a result, the
15 MCI Local switch will pass the CPN that is sent by the PBX, and is not set by the
16 Local switch.

17
18 **D. INTERCARRIER COMPENSATION FOR ISP-BOUND TRAFFIC**
19 **WITH VIRTUAL NXX CODES,**
20 **AND FOR OUT-OF-BALANCE TRAFFIC**

21
22 **ISSUE #8**

23
24 **Issue:** Is ISP traffic in the Commission's or FCC's jurisdiction in
25 terms of determining compensation when FX or virtual
26 NXX service is subscribed to by the ISP? (GT&C,
27 Glossary, sections 2.27, 2.30 and 2.36)

MCI position:

See Issue No. 10 (b). ISP traffic is in the FCC's jurisdiction and subject to reciprocal compensation treatment pursuant to its ISP Remand Order as amended by the CoreCom decision. The Texas PUC recently clarified that its order applying access charges to CLEC FX traffic only applied to non-ISP traffic and that the FCC's ISP Remand order applies to ISP traffic. While MCI believes that it is discriminatory to allow ILECs to rate their FX and virtual NXX traffic as local when CLECs are not allowed to do the same, it will not litigate this issue, as concerns the ITCs, for non-ISP traffic in light of the Commission's previous decisions. However, MCI reserves the right to have its FX and virtual NXX services rated as local if the FCC preempts the subset of states that have inconsistent rulings on the rating of CLEC FX or virtual NXX services.

MCI Language:

INTRALATA TRAFFIC Telecommunications traffic that originates and terminates in the same LATA, including but not limited to IntraLATA toll, ISP bound and Local/EAS. **ISP bound traffic will be rated based on the originating and terminating NPA-NXX.**

ISP-BOUND TRAFFIC

ISP-Bound Traffic means traffic that originates from or is directed, either directly or indirectly, to or through an information service provider or Internet service provider (ISP) **that may be physically located in the Local/EAS area of the originating End User Customer or has purchased FX service from the CLEC. The FCC has jurisdiction over ISP traffic and sets the rules for compensation for such traffic**

LOCAL/EAS TRAFFIC

Any call that originates from an End User Customer physically located in one exchange and terminates to an End User Customer physically located in either the same exchange or other mandatory local calling area associated with the originating End User Customer's exchange as defined and specified in ILEC's tariff. **ISP-bound traffic may be carried on local interconnection trunks but will be rated based on the originating and terminating NPA-NXX)**

1 **ILEC position:** See Issue No. 10 (b)

2
3 The Commission's orders cover ISP-bound traffic in saying
4 access charges apply to virtual NXX traffic. ISP traffic
5 should be based on the physical location of the customer
6 otherwise access charges apply.

7
8 **ILEC Language:** INTRALATA TRAFFIC Telecommunications traffic that
9 originates and terminates in the same LATA, including but
10 not limited to IntraLATA toll, ISP bound and Local/EAS.

11
12 ISP-BOUND TRAFFIC

13
14 ISP-Bound Traffic means traffic that originates from or is
15 directed, either directly or indirectly, to or through an
16 information service provider or Internet service provider
17 (ISP) **who is physically located in an exchange within**
18 **the Local/EAS area of the originating End User**
19 **Customer. Traffic originated from, directed to or**
20 **through an ISP physically located outside the**
21 **originating End User Customer's Local/EAS area will**
22 **be considered switched toll traffic and subject to access**
23 **charges.**

24
25
26 LOCAL/EAS TRAFFIC

27
28 Any call that originates from an End User Customer
29 physically located in one exchange and terminates to an
30 End User Customer physically located in either the same
31 exchange or other mandatory local calling area associated
32 with the originating End User Customer's exchange as
33 defined and specified in ILEC's tariff.

34
35 **ISSUE #10(B)**

36
37 **Issue:** Should MCI have to provide service (b) only to End Users
38 physically located in the same LATA to be covered by this
39 agreement? (Interconnection, section 1.1)

40
41 **MCI position:** (b) No. As stated with regard to issue #8, ISP-bound traffic
42 is under the FCC's jurisdiction, and it never said its ISP
43 reciprocal compensation orders do not apply to virtual
44 NXX traffic. FX/ISP provider customers do not have to be
45 physically located in the LATA to be treated the same as

voice traffic. The FCC has established a compensation regime for ISP traffic that does not require payment of access charges.

ILEC position: MCI must be providing service directly to End Users physically located in the LATA. No law says ITCs cannot limit interconnection agreements to non-wholesale arrangements. Also, the Commission's rulings on "virtual NXX traffic" apply to ISP-bound traffic too. The FCC's ISP Remand Order never discussed ISP FX arrangement specifically so ITCs do not believe the FCC's compensation regime for ISP-bound traffic applies.

Disputed Language: This Interconnection Attachment sets forth specific terms and conditions for network interconnection arrangements between ILEC and CLEC for the purpose of the exchange of IntraLATA Traffic that is originated by an End User Customer of one Party and is terminated to an End User Customer of the other Party, **where each Party directly provides Telephone Exchange Service to its End User Customers physically located in the LATA.** This Agreement also addresses Transit Traffic as described in Section 2.2 below. This Attachment describes the physical architecture for the interconnection of the Parties facilities and equipment for the transmission and routing of Telephone Exchange Service traffic between the respective End User Customers of the Parties pursuant to **Sections 251 (a) and (b) of the Act.**

ISSUE #13

Issue: Should all intraLATA traffic be exchanged on a bill and keep basis or should reciprocal compensation apply when out of balance? (Interconnection, section 2.4)

MCI position: MCI believes reciprocal compensation rates should apply for ISP and non-ISP Local /EAS traffic if out of balance traffic (60/40). MCI believes the recent CoreCom ruling allows it to seek reciprocal compensation for ISP traffic in new markets.

ILEC position: ITCs believe all traffic should be bill and keep.

Disputed Language: The Parties agree to only route IntraLATA Traffic over the dedicated facilities between their networks. InterLATA Traffic shall be routed in accordance with Telcordia Traffic Routing Administration instruction and is not a provision of this Agreement. Both Parties agree that compensation for intraLATA Traffic shall be in the form of the mutual exchange of services provided by the other Party with no additional billing if the traffic exchange is in balance. Traffic is considered out-of-balance when one Party terminates more than 60 percent of total Local/EAS traffic exchanged between the Parties. The Parties also agree that the compensation for ISP-bound traffic when out of balance is governed by the FCC's orders on compensation for ISP-bound traffic, specifically (1) the so-call ISP Remand Order [Intercarrier Compensation for ISP-based Traffic, Docket No. 99-68, Order on Remand and Report and Order, 16 FCC Rcd 9151 (2001)] and (2) the modifications to that order made in the FCC's decision on Core Communications' forbearance request (Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. Paragraph 161 (c) from Application of the ISP Remand Order, WC Docket No. 03-171, released October 18, 2004). Traffic studies may be requested by either party to determine whether traffic is out of balance. Such traffic studies will not be performed more than four times annually. Should a traffic study indicate that Local/EAS/ISP-bound traffic exchanged is out-of-balance, either Party may notify the other Party that mutual compensation between the Parties will commence in the following month. The Parties agree that charges for termination of Local/EAS and ISP-bound Traffic on each Party's respective networks are as set forth in the Pricing Attachment. related to exchange of such traffic issued by either Party except as otherwise provided in this Agreement.

ISSUE #21

Issue: What should the reciprocal compensation rate be for out-of-balance Local/EAS or ISP-bound traffic? (Pricing, D)

MCI position: This is the rate set in the FCC’s order on reciprocal compensation rates.

1
2 **ILEC position:** No rate.

3
4 **Disputed Language:** \$0.0007
5

6 **Q. WHAT IS THE NATURE OF THE PARTIES' DISAGREEMENT?**

7 **A.** The RLECs contend that the FCC Remand Order sets compensation for calls
8 destined to an ISP only when the ISPs modem bank is physically located within
9 the calling party's local calling area. MCI disputes this position because the FCC
10 Remand Order says no such thing. The ISP Remand Order concludes that the
11 jurisdiction of the traffic depends on the nature of the traffic and ISP Bound
12 traffic is subject to FCC jurisdiction. Further, the FCC set a rate of \$0.0007 for
13 such traffic. The FCC ISP Remand Order does not conclude that the end points of
14 traffic matter for determining the jurisdiction of ISP Bound traffic.
15

16 **Q. HAS THE COMMISSION PREVIOUSLY ADDRESSED THE VIRTUAL**
17 **NXX ISSUE?**

18 **A.** Yes. Prior to the FCC's ISP Remand decision, the Commission ruled in its
19 Adelphia decision that access charges may apply to virtual NXX traffic.
20 However, after the FCC's ISP Remand Order, in its US LEC Arbitration decision,
21 the Commission determined the FCC has jurisdiction over ISP Bound traffic. The
22 FCC's ISP Remand Order is the controlling law and therefore the Commission
23 must conclude that the determination of the appropriate compensation for ISP
24 Bound traffic is within the jurisdiction of the FCC and has been set at \$0.0007
25 (See, WC Docket No. 03-171 ruling on the Petition of Core Communications,

1 Inc., for Forbearance Under 47 U.S.C. [sec] 160(c) from Application of the ISP
2 Remand Order. “CoreCom”)

3
4 Consistent with this FCC decision, MCI only proposes to seek this compensation
5 when traffic is out of balance on a 60-40 basis, similar to the trigger it proposes
6 and at the same rate proposed for non-ISP bound intraLATA traffic.

7
8 **Q. ARE THE RLECs’ CONCERNS ABOUT UNDUE OR ADDITIONAL**
9 **RATE ARBITRAGE VALID?**

10 A. No. As discussed in the CoreCom ruling, the FCC found that its prior concerns
11 about arbitrage no longer exist because the use of dial-up Internet services is
12 declining as the availability of broadband services increase.

13
14 **Q. HAVE OTHER STATE COMMISSIONS AGREED WITH MCI’S**
15 **CONCLUSION IN THIS REGARD?**

16 A. Yes. Other state commissions have ruled in favor of CLECs as regards this issue.
17 For example, in its Declaratory Order in *Declaratory Ruling Concerning the*
18 *Usage of Local Interconnection Services for the Provision of Virtual NXX Service*,
19 Docket 28906, the Alabama Public Service Commission determined that ISP-
20 bound FX and VNXX calls are predominantly considered jurisdictionally
21 interstate and subject to the authority of the FCC. The Alabama commission
22 further concluded that carriers may continue to assign telephone numbers to end

1 users physically located outside the rate center to which the numbers they are
2 assigned are homed. The commission also noted that ILECs have traditionally
3 treated their FX and virtual NXX traffic as local in all respects, including with
4 regard to intercarrier compensation. In its Order on Reconsideration, in
5 *Consolidated Complaints and Requests for Post-Interconnection Dispute*
6 *Resolution Regarding Intercarrier Compensation for “FX-Type” Traffic Against*
7 *Southwestern Bell Telephone Company*, Docket No. 24015 (2004), the Texas
8 Public Utility Commission upheld a finding that

9 the compensation mechanism in the *ISP Remand Order* shall apply to all
10 ISP-bound calls. The Arbitrators stated that “all ISP-bound traffic falls
11 under the compensation mechanism outlined in the ISP Remand Order.
12 Consequently, the Arbitrators found that all ISP-bound traffic, whether
13 provisioned via an FX/FX-type arrangement or not, is subject to the
14 compensation mechanism contained in the FCC’s *ISP Remand Order*.”
15 Consistent with this conclusion, the Commission withdraws its decision
16 applying access charges to traffic bound for ISPs outside the local calling
17 area. (p.3)
18

19 The Texas commission specifically referred compensation for non-ISP traffic to a
20 separate proceeding.

21 . Accordingly, the Commission should approve MCI’s proposed language.

22
23 **Q. THE ILECS CITE THE LOCAL COMPETITION ORDER,**
24 **PARAGRAPH 1043, TO CONTEND THAT END USERS MUST BE**
25 **PHYSICALLY LOCATED IN A “LOCAL AREA” FOR THE CALL TO**
26 **BE “LOCAL”. (P. 22) WHAT IS YOUR RESPONSE?**

1 A. This paragraph of the FCC's First Report and Order does not address ISP Bound
2 traffic and is not applicable to this issue.

3
4 **Q. THE RLECS' RETURN STATES THAT, CONTRARY TO MCI'S**
5 **STATEMENT IN ITS PETITION AT PAGE 29, MCI IS NOT**
6 **PREVENTED UNDER THIS AGREEMENT FROM OFFERING LOCAL**
7 **SERVICE. (P. 23) WHAT IS YOUR RESPONSE?**

8 A. The RLECs' statement that "MCI is free to offer service in any LATA they (sic)
9 want," is misleading. The RLECs intend by their proposed language to foreclose
10 MCI from offering local telecommunication services to Time Warner in every
11 LATA and every local calling area.

12
13 **Q. THE RLECS STATE THAT THEY LACK THE ABILITY TO "CHOOSE**
14 **CERTAIN TYPES OF CUSTOMERS," THUS IMPLYING THAT THEY**
15 **CANNOT SERVE ISPS, AND, THEREFORE, THAT THEY CANNOT**
16 **"GENERATE OUT-OF-BALANCE" TRAFFIC. (PP. 26-27) WHAT IS**
17 **YOUR RESPONSE?**

18 A. The RLECs are free to offer ISPs FX numbers to provide service in their
19 territories. The RLECs also offer broadband and Dial-Up services in many cases
20 in competition with ISPs. Further, as the FCC noted in the CoreCom order, these
21 other broadband alternatives, are lowering the usage of dial-up internet service
22 providers. MCI is seeking this agreement to continue serving these ISP dial-up

1 entities that have contract with it on-net, thus achieving greater efficiencies by
2 having them located on-net near our local switches. These customers should have
3 the ability to choose between the services of the RLECs and MCI. The RLECs
4 should not be permitted to exercise their monopoly power and restrict competitive
5 alternatives in their territories.

6
7 **Q. WHAT SHOULD THE COMMISSION DO TO RESOLVE ISSUE #13?**

8 A. As stated above, the FCC's ISP Remand Order permits MCI to seek the same
9 reciprocal comp rate for ISP traffic and Local/EAS calling when traffic is out of
10 balance. As such, MCI's proposed ICA language should be adopted.

11 **Q. WHAT SHOULD THE COMMISSION DO TO RESOLVE ISSUE #21?**

12 A. As discussed with regard to Issue No. 8, the FCC has determined a rate applicable
13 to "out of balance" reciprocal compensation. The rate is \$0.0007. Accordingly,
14 the Commission should adopt that rate.

15
16 **E. CSRS**

17
18 **ISSUE #18**

19
20 **Issue:** What should the interval be for providing CSRs? (Pre-
21 Order, Ordering, section 1.3)

22
23 **MCI position:** The interval should be no more than 48 hours when the
24 CSR is for a customer with less than 24 lines. This is the
25 interval most states have set for CLEC-to-CLEC migrations
26 where manual processing is involved. Some states (e.g,
27 Texas and New York) require 24 hour turn-around on

1 manual provision of CSRs. Large ILECs provide CSRs
2 through computer queries, in seconds.

3
4 **ILEC position:** ITCs believe compiling some CSRs can take up to
5 five days.

6
7 **Disputed Language:** Based on reasonable volume of requests, the standard
8 interval for address verification is one to two business days
9 and less than 48 hours (unless a state sets a shorter
10 interval) for CSRs for customer with 24 or less lines, one
11 to five business days for a full customer service record.
12

13 **Q. THE RLECS CONTEND THAT MCI IS DEMANDING A CUSTOMIZED**
14 **CSR? (p. 34) WHAT IS YOUR RESPONSE?**

15 A. MCI is requesting that the RLECs provide it with industry standard CSRs. MCI
16 is not asking for CSRs that are outside industry standards. It is willing to work
17 with the RLECs on what industry standard CSR version to use for the process.
18 MCI's concern is that the RLECs may take an excessively long period of time to
19 provide it with CSRs. Since many states require CLECs, which are often small
20 companies like the RLECs, to provide each other with CSRs within 48 hours, it is
21 reasonable that a similar requirement be implemented in here. Further, MCI
22 proposes to restrict the 48 hour CSR delivery interval to orders with less than 24
23 lines. This should serve to eliminate any administrative burdens.

24 **F. ORDERING CHARGES**

25 **ISSUE #20**

26
27
28 **Issue:** Are the ordering charges just and reasonable? (Pricing, C
29 1, 2, & 4)

30
31 **MCI position:** No. They are very high where manual ordering is the only
32 choice. There would be no incentive for the ITCs to move
33 to electronic ordering systems with rates this high. Some

1 Bell companies set manual rates high to encourage CLECs
2 to use electronic ordering systems but with these ITCs MCI
3 has no cheaper alternative. Further, there is no reason to
4 charge a higher price for cancellations and change orders.
5 There should be no charge for cancellations because there
6 is no additional work being done. There should be a lower
7 charge not higher one for changes to the original order.
8 Usually it's only one feature or a later due date being
9 sought at the customer's request. The charge should be set
10 at \$15 for the original LSR and \$5 for changes. MCI also
11 did not see these rates until a week (Home and Farmers)
12 and two days (Hargray and PBT) before the arbitration
13 window closed despite repeated requests. So MCI has not
14 had time to negotiate changes with the ITCs. It has received
15 no cost studies to support any of these rates.

16
17 **MCI's Language:** All ITCs:

18
19 Service Order (LSR)\$ 15.00 / request

20
21 Service Order Cancellation Charge

22 No charge.

23 Order Change Charge

24 \$5.00.

25
26 **ILEC position:** ITCs believe their rates are reasonable, citing a
27 BellSouth \$22 rate for manual order.

28
29 **ILECs' Language:** PBT:

30 Service Order (LSR) \$ **23.00 / request**

31
32 Service Order Cancellation Charge

33 **\$ 35.00 / request**

34
35 Order Change Charge

36 **\$35.00 / request**

37
38 Hargray:

39 Service Order (LSR) \$ **22.00 / request**

40
41 Service Order Cancellation Charge

42 **\$35.00 / request**

43
44 Order Change Charge

45 **\$35.00 / request**

1 Farmers:
2 Service Order (LSR) \$ 28.00 / request

3
4 Service Order Cancellation Charge
5 \$ 32.00 / request

6
7 Order Change Charge
8 \$32.00 / request

9
10 Home:
11 Service Order (LSR) \$22.00 / request

12
13 Service Order Cancellation Charge
14 \$35.00 / request
15 Order Change Charge

16
17 \$35.00 / request
18
19
20

21 **Q. HAVE THE SERVICE ORDERING CHARGES PROPOSED BY THE**
22 **RLECS BEEN COST JUSTIFIED?**

23 A. No. Further, since the proposed rates vary dramatically and it is reasonable to
24 conclude that these RLECs are similarly situated, it is also reasonable to conclude
25 that the proposed rates cannot be adequately cost justified. Given that the RLECs
26 have not even attempted to justify the charges they have proposed for service
27 orderings, MCI has proposed RLEC manual service ordering rates that would be
28 in line with cost based rates the Commission determined for BellSouth.

29
30 **Q. ARE THE SERVICE ORDERING CHARGES PROPOSED BY THE**
31 **RLECS REASONABLE?**

32 A. No. The rates proposed by the RLECs are unreasonable, even where manual
33 ordering is the only means available to MCI.

1

2 **Q. WHAT LEADS TO CONCLUDE THE MANUAL SERVICE ORDERING**
3 **RATES PROPOSED BY THE RLECs ARE UNREASONABLE?**

4 A. The Commission determined that it cost BellSouth \$31.38 to handle an order to
5 install service and \$3.94 to handle an order to disconnect service. This results in
6 an average manual ordering cost of \$17.66 (i.e. $((\$31.38 + 3.94) / 2) = \17.66). It
7 is reasonable to assume that the RLECs' labor rate is slightly less than
8 BellSouth's labor rate. It is also reasonable to assume the RLECs' processes are
9 just as efficient as BellSouth's and therefore the time it takes the RLEC workers
10 to complete each task associated with a manual service order should be equal to or
11 less than what was assumed in the BellSouth rate development, on average. As
12 such, it is reasonable to conclude that the RLECs' average cost to complete a
13 manual service order is less than \$17.66.

14

15 **Q. GIVEN THESE FACTS, WHAT WOULD BE REASONABLE FOR THE**
16 **RLECs TO CHARGE FOR MANUAL SERVICE ORDERS?**

17

18 A. It would be reasonable for the RLECs to charge approximately \$15 to process a
19 manual service order for installations and disconnects. To the extent this \$15 rate
20 may be less than the RLECs' cost to process manual service orders given their
21 current processes, this rate would provide an incentive to increase efficiency. To
22 the extent this \$15 is greater than what it costs the RLECs to process manual
23 service orders it should not be that much in excess of the RLECs' true cost to
24 create material issues and can be corrected when and if a cost analysis is
25 completed.

1

2 **Q. SHOULD THERE BE A CHARGE TO CANCEL AN ORDER?**

3 A. It should not take much time at all for the RLECs to cancel an order. As such,
4 until such time that the RLECs' cost justify a charge for such an order, no charge
5 is necessary or sound be imposed.

6

7 **Q. SHOULD THERE BE A CHARGE TO MODIFY AN ORDER?**

8 A. The total amount of time spent by RLEC employees to modify an order should be
9 similar to that taken by BellSouth to process a manual service disconnect order.
10 Since it was determined that BellSouth's cost to process a service disconnect
11 order was \$3.94, it would be reasonable to permit the RLECs to charge \$5.00 for
12 service modification requests until such time that a cost based charge can be
13 determined.

14 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

15 A. Yes.

16

Exhibit GJD-1

GREGORY J. DARNELL
PROFESSIONAL EXPERIENCE

4/20/04 – Date SENIOR MANAGER, MCI, REGULAORY ECONOMICS

Responsibilities: Define public policy and ensure effective advocacy.

6/21/96 –4/20/04 REGIONAL SENIOR MANAGER, MCI WORLDCOM, INC., PUBLIC POLICY.

Responsibilities: Define public policy and ensure effective advocacy throughout BellSouth Region.

9/1/95 - 6/21/96 SENIOR STAFF SPECIALIST III, MCI, NATIONAL ACCESS POLICY.

Responsibilities: Define MCI's national access policies and educate field personnel. Present MCI's access policy positions to Executive Management and obtain concordance.

9/1/94 - 9/1/95 SENIOR STAFF SPECIALIST III, MCI, CARRIER RELATIONS.

Responsibilities: Manage MCI's business relationship with ALLTEL.

1/1/93 - 9/1/94 SENIOR STAFF SPECIALIST II, MCI, SOUTHERN CARRIER MANAGEMENT.

Responsibilities: Chief of Staff.

9/1/91 - 1/1/93 MANAGER, MCI, ECONOMIC ANALYSIS.

Responsibilities: Testify before state utility commissions on access issues. Write tariff and rulemaking pleadings before the FCC. Serve as MCI's expert on Local Exchange Carrier revenue requirements, demand forecasts and access rate structures.

1/1/90 - 9/1/91 SENIOR STAFF SPECIALIST I, MCI, FEDERAL REGULATORY.

Responsibilities: Direct FCC tariff and rulemaking analysis. Provide access cost input to MCI's Business Plan. Write and file petitions against annual tariff filings and requests for rulemaking. Train State Utility Commissions on the use and design of financial databases.

1/1/89 - 1/1/90 STAFF SPECIALIST III, MCI, FEDERAL REGULATORY.

Responsibilities: Track and monitor tariff transmittals for Ameritech, BellSouth, SWBT and U S West. Author petitions opposing RBOC tariff filings. Represent MCI at National Ordering and Billing Forum.

10/9/87 - 1/1/89 SUPERVISOR, MCI, TELCO COST ANALYSIS.

Responsibilities: Supervise team of analysts in their review of interstate access tariff changes. Coordinate updates to Special Access billing system.

Exhibit GJD-1 (CONT)

1/1/86 - 10/9/87 FINANCIAL ANALYST III, MCI, TELCO COST.

Responsibilities: Analyze MCI's access costs and produce forecasts.

6/1/85 - 1/1/86 STAFF ADMINISTRATOR II, MCI, LITIGATION SUPPORT.

Responsibilities: Support MCI's antitrust counsel in taking depositions, preparing interrogatories and document requests.

1/1/84 - 6/1/85 PRODUCTION ANALYST, MCI, LITIGATION SUPPORT.

Responsibilities: Review and abstract MCI and AT&T documents obtained in MCI's antitrust litigation.

8/1/82 - 1/1/84 LEGAL ASSISTANT, GARDNER, CARTON AND DOUGLAS.

Responsibilities: Research and obtain information from the FCC, FERC and SEC.

EDUCATIONAL EXPERIENCE

*9/1/00 – 12/15/04 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE,
M.S. TELECOMMUNICATIONS MANAGEMENT*

Studies: Network & Internet Engineering, MIS Integration, Management Accounting, International Public Policy, Strategic and Organizational Management of Technology, and IT Acquisition.

*9/1/91 - 1/1/93 GEORGE WASHINGTON UNIVERSITY,
GRADUATE SCHOOL OF TELECOMMUNICATIONS.*

Studies: Public Policy, Electrical Engineering and Economics.

9/1/78 - 6/1/82 UNIVERSITY OF MARYLAND, B.A.B.S.S., ECONOMICS.

Studies: Macro and Micro Economics, Statistics, Calculus, Astronomy and Music.

CERTIFICATE OF SERVICE

I, Betty J. DeHart of Woodward, Cothran & Herndon, Attorneys for MCI, Inc., do hereby certify that I have served a copy of the Direct Testimony of Greg Darnell by causing to be deposited in a United States Postal Service mailbox copies of the same, postage prepaid, addressed to the persons indicated below.

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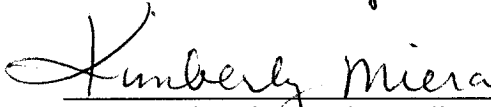
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Betty J. DeHart

SWORN to before me this

16th day of May, 2005.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 10/08/08

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